

EXHIBIT 5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Inventors: Freeman, et al.

Patent No.: 6,725,427

Filed: December 10, 2001

Title: Document Stream Operating System
With Document Organizing And
Display Facilities

REQUEST FOR INTER PARTES
REEXAMINATION OF US PATENT 6,725,
427 UNDER 35 U.S.C. § 311 AND 37
C.F.R. §§ 1.913, 1.915

Mail Stop *Inter Partes* Reexamination
ATTN: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR *INTER PARTES* REEXAMINATION OF U.S. PATENT
6,725,427**

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TABLE OF EXHIBITS

LIST OF EXHIBITS

The exhibits to the present Request are arranged in four groups: prior art (“PA”), relevant patent prosecution file history, patents, and claim dependency relationships (“PAT”), claim charts (“CC”), and other (“OTH”).

A. PRIOR ART (PA)

PA-SB08	USPTO Form SB/08
PA-A	U.S. Patent No. 6,243,724 (“Mander”)
PA-B	Retrospect User’s Guide, version 3 first edition, Dantz Development Corp., 1989-1995. (“Retrospect”)
PA-C	U.S. Patent No. 5,499,330 (“Lucas”)
PA-D	Magellan Explorer’s Guide (1989) (“Magellan Explorer’s Guide”)
PA-E	Using Lotus Magellan (1989) (“Using Lotus Magellan”)

B. RELEVANT PATENT MATERIALS (PAT)

PAT-A	U.S. Patent No. 6,725,427 (the ‘427 patent)
PAT-B	File Wrapper for the ‘427 Patent
PAT-C	File Wrapper for the ‘227 Patent

C. CLAIM CHARTS (CC)

CC-A	Claim Chart showing claims 16, 17, 18, 19, 22, 24, 25, 26, 29, 31, 32, 33, 34, 37 and 39 are anticipated by U.S. Patent No. 6,243,724 (“Mander”); claims 1, 2, 5, 7, 8, 9, 10, 13 and 15 are rendered obvious by Mander in view of Retrospect User’s Guide (“Retrospect”).
CC-B	Claim Chart showing claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 are rendered obvious by U.S. Patent No. 5,499,330 (“Lucas”) in view of Lotus Magellan (as described in Using Lotus Magellan (“Using Lotus Magellan”) and Magellan Explorer’s Guide (“Magellan Explorer’s Guide”)).

D. OTHER DOCUMENTS (OTH)

OTH-A	Complaint in <i>Mirror Worlds, LLC vs. Apple Inc.</i> , Civil Action No. 6:-08-CV-88 (E.D. Tex) filed March 14, 2008.
OTH-B	Mirror Worlds’ Disclosure of Asserted Claims and Preliminary Infringement Contention Under Patent Rule 3-1 and Disclosures Under Patent Rule 3-2 in <i>Mirror Worlds, LLC v. Apple Inc.</i> , Civil Action No. 6:-08-CV-88 (E.D. Tex) filed August 15, 2008.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Inventors: Freeman, et al.

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Filed: December 10, 2001

Title: Document Stream Operating System
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Alexandria, VA 22313-1450

**REQUEST FOR *INTER PARTES* REEXAMINATION OF U.S. PATENT
6,725,427**

Dear Sir:

Third Party Requester and Real Party in Interest, Apple Computer, Inc., hereby respectfully requests reexamination pursuant to 35 U.S.C. §§ 311 *et seq.* and 37 C.F.R. § 1.902 *et seq.* of claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of U.S. Patent No. 6,725,427 (“the ‘427 patent”) filed December 10, 2001 and issued April 20, 2004 to Eric Freeman, et al. (Exhibit PAT-A). Reexamination is requested in view of the substantial new questions of patentability (“SNQ”) presented below. Requester reserves all rights and defenses available including, without limitation, defenses as to invalidity and unenforceability. By simply filing this Request in compliance with the Patent Rules, Requester does not represent, agree or concur that the ‘427 patent is enforceable¹ and by

¹ As alleged by Patent Owner in the below defined Underlying Litigation, and as required by 37 C.F.R. § 1.510(a), the ‘427 patent is still within its period of enforceability for reexamination purposes, to the extent that the ‘427 patent has not lapsed for failure to pay maintenance fees, has not been the subject of any Terminal Disclaimer, and has not yet been held unenforceable in a court of competent jurisdiction.

asserting the SNQ herein, Requester specifically asserts that claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of the '427 patent are in fact not patentable and as such the U.S. Patent and Trademark Office (the "Office") should reexamine and find claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 unpatentable and cancel claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of the '427 patent, rendering claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of the '427 patent null, void and otherwise unenforceable.

I. REQUIREMENTS FOR INTER PARTES REEXAMINATION UNDER 37 C.F.R. § 1.915

Requester satisfies each requirement for *inter partes* reexamination of the '427 patent.

A. 37 C.F.R. § 1.915 (B)(3): STATEMENT POINTING OUT EACH SUBSTANTIAL NEW QUESTION OF PATENTABILITY

A statement pointing out each SNQ based on the cited patents and printed publication, and a detailed explanation of the pertinency and manner of applying the patents and printed publications to claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of the '427 patent is presented below in accordance with 37 C.F.R. § 1.915 (b)(3).

1. Mander anticipates claims 16, 17, 18, 19, 22, 24, 25, 26, 29, 31, 32, 33, 34, 37 and 39.

Requestor respectfully submits that claims 16, 17, 18, 19, 22, 24, 25, 26, 29, 31, 32, 33, 34, 37 and 39 of the '427 patent are anticipated by Mander. The reference was not discussed or applied either by the Examiner or the Applicants during the original prosecution and raise a substantial new question of patentability with respect to the claims of the '427 patent because the reference is not cumulative of any art previously of record and its teachings are such that a reasonable examiner would have considered the combination pertinent to deciding the question of patentability of the requested claims. Furthermore, Mander teaches every element of the claims, including those noted by the Examiner to be most responsible for allowance of the claims. A claim chart setting forth the pertinency and manner of applying Mander to these claims is submitted herewith as Exhibit CC-A.

2. Mander in view of Retrospect renders obvious claims 1, 2, 5, 7, 8, 9, 10, 13 and 15.

Requestor respectfully submits that claims 1, 2, 5, 7, 8, 9, 10, 13 and 15 of the '427 patent are obvious over Mander in view of Retrospect. The references were not discussed or applied either by the Examiner or the Applicants during the original prosecution and raise a substantial new question of patentability with respect to the claims of the '427 patent because the combination is not cumulative of any art previously of record and its teachings are such that a reasonable examiner would have considered the combination pertinent to deciding the question of patentability of the requested claims. Furthermore, Mander in view of Retrospect teaches every element of the claims, including those noted by the Examiner to be most responsible for allowance of the claims. A claim chart setting forth the pertinency and manner of applying Mander in view of Retrospect to these claims is submitted herewith as Exhibit CC-A.

3. Lucas in view of Lotus Magellan (as described in Using Lotus Magellan and Magellan Explorer's Guide) renders obvious claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39.

Requestor respectfully submits that claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of the '427 patent are obvious over Lucas in view of Lotus Magellan. The references were not discussed or applied either by the Examiner or the Applicants during the original prosecution and raise a substantial new question of patentability with respect to the claims of the '427 patent because the combination is not cumulative of any art previously of record and its teachings are such that a reasonable examiner would have considered the combination pertinent to deciding the question of patentability of the requested claims. Furthermore, Lucas in view of Lotus Magellan teaches every element of the claims, including those noted by the Examiner to be most responsible for allowance of the claims. A claim chart setting forth the pertinency and manner of applying Mander in view of Retrospect to these claims is submitted herewith as Exhibit CC-B.

B. 37 C.F.R. § 1.915 (B)(4): COPY OF EVERY PATENT OR PRINTED PUBLICATION RELIED UPON TO PRESENT AN SNQ

A copy of every patent or printed publication relied upon to present an SNQ is submitted herein, pursuant to 37 C.F.R. §1.915(b)(4), at Exhibits PA-A through Exhibits

PA-E. Citation of which may be found on the accompanying Form PTO-SB/08 at Exhibit PTO-SB/08. Each of these cited prior art publications constitutes effective prior art as to the claims of the '427 patent under 35 U.S.C. § 102 and 35 U.S.C. § 103

C. 37 C.F.R. § 1.915 (B)(5): COPY OF THE ENTIRE PATENT FOR WHICH REEXAMINATION IS REQUESTED

A full copy of the '427 patent is submitted herein at Exhibit PAT-A and its corresponding file history is submitted at PAT-B in accordance with 37 C.F.R. § 1.915(b)(5).

D. 37 C.F.R. § 1.915 (B)(6): CERTIFICATION THAT A COPY OF THE REQUEST HAS BEEN SERVED IN ITS ENTIRETY ON THE PATENT OWNER

A copy of this request has been served in its entirety on the Patent Owner in accordance with 37 C.F.R. § 1.915(b)(6) at the following address:

COOPER AND DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

E. 37 C.F.R. § 1.915 (A): FEE FOR REQUESTING REEXAMINATION

In accordance with 37 C.F.R. § 1.915(a), a credit card authorization to cover the fee for reexamination of \$8,800.00 is attached. If this authorization is missing or defective please charge the Fee to the Novak Druce and Quigg Deposit Account No. 14-1437.

II. RELATED CO-PENDING LITIGATION REQUIRES TREATMENT WITH SPECIAL DISPATCH AND PRIORITY OVER ALL OTHER CASES

The '427 patent is presently the subject of litigation, *Mirror Worlds, LLC v. Apple, Inc.*, Civil Action No. 6:08-CV-88 (E.D. Tex.), filed March 14, 2008 (“the Pending Litigation”). *See* Complaint filed March 14, 2008 at Exhibit OTH-A. Pursuant to 35 U.S.C. § 305, requester respectfully urges that this Request be granted and reexamination conducted not only with “**special dispatch**,” but also with “**priority over all other cases**” in accordance with MPEP § 2261, due to the ongoing nature of the underlying litigation.

III. RELATED REEXAMINATION PROCEEDINGS

Requester is concurrently submitting a request for an *ex parte* reexamination of U.S. Patent No. 6,006,227 (“the ‘227 patent”), and of U.S. Patent No. 6,638,313 (“the

'313 patent"), a continuation of the '227 Patent. Requester is also concurrently submitting requests for *inter partes* reexamination of U.S. Patent No. 6,768,999 ("the '999 Patent"). The '427 Patent is a division of the '313 patent. The '999 patent is a continuation-in-part of the '313 patent.

IV. OVERVIEW OF THE '427 PATENT AND ITS PROSECUTION HISTORY

A. SUMMARY OF THE DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS OF THE '427 PATENT

U.S. Patent 6,735,427 to Freeman and Gelernter was filed on December 10, 2001 and issued on April 20, 2004.

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. *See, e.g.* '427 patent at Abstract; 4:10-12. This is done so that the location and nature of file storage is transparent to the user. *See, e.g.,* '427 patent at Abstract; 1:33-35 ("conventional operating systems require the user to invent pointless names for files and to construct organizational hierarchies that quickly become obsolete.") The '427 patent states that the operating system also allows for information to be organized as needed (instead of at the time the document is created), and for large groups of related documents to be summarized concisely for the user. '427 patent at Abstract. The '427 patent also contemplates that archiving of documents is automatic. '427 patent at Abstract.

The preferred embodiment of the '427 patent is a computer storage system for storing files in "a time-ordered sequence," or "stream." '427 patent at 4:10-12. Every document created by or sent to a person or entity's computer is stored in the "main stream," so that the main stream serves "as a diary of a person or an entity's electronic life." '427 patent at 4:10-12. The system also utilizes substreams, which contain subsets of the documents found in the mainstream. '427 patent at 5:1-19. Documents within the main stream and substreams are organized according to when the documents were created. '427 patent at 5:53-65. Documents in the main stream and substreams may be sorted according to the documents' chronological indicators. '427 patent at 5:1-3; 5:57-6:11. The system runs in a client/server environment so that users can view documents stored on server computers from client computers. '427 patent at 2:58-67; 4:6-9.

The '427 patent also discloses various means for viewing the streams of documents such that the user may visualize the documents as a time ordered stack of papers, or may visualize the documents as a visual summary represented by figures or key terms. '427 patent at 2:44-52. Further, Figure 1 shows an embodiment in which the user interface is "based on a visual representation of the stream metaphor":

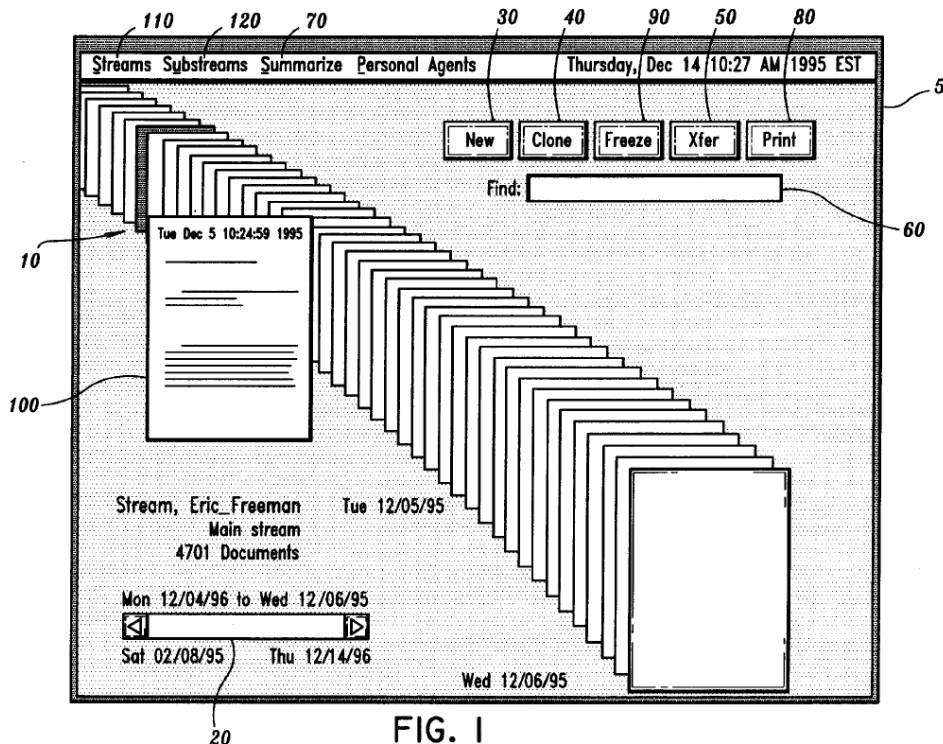


FIG. 1

The '427 patent at Figure 1, 6:38-42. In this embodiment, "users can slide the mouse pointer 10 over the document representations to "glance" at each document, or use the scroll bar 20 to move through time. The '427 patent at 6:38-42. The '427 patent also describes an embodiment in which "'browse cards' 100 are employed so that when the user touches a document in the stream-display with the cursor, a browse card appears." The '427 patent at 8:3-16.

As issued, the '427 Patent has a total of 39 claims. Requester is seeking reexamination of claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39, which are being asserted by Patent Owner in co-pending litigation. Of those claims, claims 1, 8, 16, 25 and 32 are independent claims and the remaining claims are dependent.

B. SUMMARY OF THE FILE HISTORY

The '427 patent is a continuation of U.S. Patent No. 6,006,227. The application that led to the '427 patent was filed on 12/10/2001 and was assigned to a different Examiner that

the one who had examined the application that led to the ‘227 patent. Unlike the ‘227 patent, the ‘427 patent was allowed after very brief examination.

Prior to any formal action being taken by the Examiner, the applicant filed a preliminary amendment, canceling all twelve claims and adding sixty-eight new claims. PAT-B, Pros. His., paper 2, Preliminary Amendment, 12/10/2001. The first Office Action instructed the applicant that a restriction was required. PAT-B, Pros. His., paper 4, 5/2/2003, pp. 2-4. In response, the applicant elected to prosecute only one group of claims. PAT-B, Pros. His., paper 5, 6/5/2003, p. 1.

The second Office Action allowed the claims without any comment—after fixing a typographical error relating to the set of claims subject to restriction in the first Office action. PAT-B, Pros. His., paper 7, Office Action, 8/13/2003, pp. 2-3. In response, the applicant filed an Amendment canceling the claims outside the elected group. PAT-B, Pros. His., paper 8, Amendment, 10/09/2003, p. 13. The Examiner then issued a Notice of Allowance without any comment. PAT-B, Pros. His., paper 9, Office Action, 10/31/2003,

V. CLAIM CONSTRUCTION

A. STANDARD

Requester notes that the ‘427 patent, for which reexamination is requested, is asserted in *Mirror Worlds, LLC v. Apple Inc.*, Civil Action No. 6:-08-CV-88 (E.D. Tex). For purposes of this Request, the claim terms are presented by the Requester in accordance with 37 C.F.R § 1.555(b) and MPEP § 2111. Specifically, each term of the claims is to be given its “broadest reasonable construction” consistent with the specification. MPEP § 2111; *In re Trans Texas Holding Corp.*, No. 2006-1599, -1600, p.14 (Fed. Cir. August 22, 2007) (citing *In re Yamamoto*, 227 F.2d 1569, 1571 (Fed. Cir. 1984)). As the Federal Circuit noted in *Trans Texas*, the Office has traditionally applied this standard during reexamination and does not interpret claims as a court would interpret claims. MPEP § 2111. The Office is not bound by any prior district court claim construction. *Trans Texas*, No.2006-1599 at 14, 19. Rather:

the PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever

enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.

In re Morris, 127 F.3d 1048, 1054-55, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997). The rationale underlying the "broadest reasonable construction" standard is that it reduces the possibility that a claim, after issue or certificate of reexamination, will be interpreted more broadly than is justified. 37 C.F.R § 1.555(b), MPEP § 2111.

Because the standards of claim interpretation used in the courts in patent litigation are different from the claim interpretation standards used in the Office in claim examination proceedings (including reexamination), any claim interpretations submitted herein for the purpose of demonstrating an SNQ are neither binding upon litigants in any litigation related to the '427 patent nor do such claim interpretations necessarily correspond to the construction of claims under the legal standards that are mandated to be used by the courts in litigation. *See* 35 U.S.C. § 314; *see also* MPEP § 2286 II (determination of an SNQ is made independently of a court's decision on validity because of different standards of proof and claim interpretation employed by the District Courts and the Office); *see also In re Trans Texas Holding Corp.*, No. 2006-1599, -1600, p.14 (Fed. Cir. August 22, 2007); *In re Zletz*, 893 F.2d 319, 322, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

Accordingly, the interpretation and/or construction of the claims in the '427 patent presented either implicitly or explicitly herein should not be viewed as constituting, in whole or in part, Requester's own interpretation and/or construction of such claims, but instead, should be viewed as constituting an interpretation and/or construction of such claims that is consistent with the broadest reasonable construction of the claim language and/or with Patent Owner's own view of the claims in the co-pending litigation. In fact, Requester expressly reserves the right to present its own interpretation of such claims at a later time, which interpretation may differ, in whole or in part, from that presented herein.

B. CLAIM TERMS

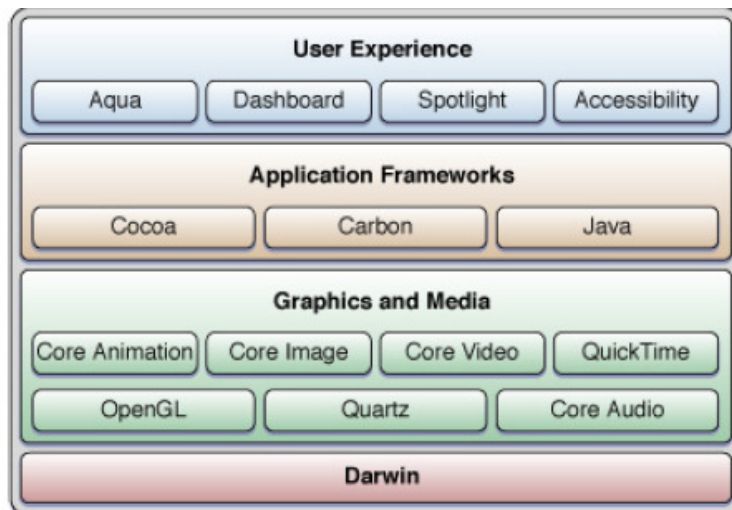
In considering the patentability of the claims of the '427 patent, the Requester has applied certain claim constructions presented by the Patent Owner during prosecution of the '427 patent and on claim constructions derived from statements which indicate the Patent Owner's interpretation of the claim terms as a basis for its allegations of infringement in the co-pending litigation. *See* Mirror Worlds' Disclosure of Asserted Claims and

Preliminary Infringement Contention Under Patent Rule 3-1 and Disclosures Under Patent Rule 3-2 in *Mirror Worlds, LLC v. Apple Inc.*, Civil Action No. 6:-08-CV-88 (E.D. Tex) filed August 15, 2008, OTH-B.

Requester presents these constructions for the convenience of the Office and does not agree that these interpretations are in fact the broadest reasonable interpretation of the presented terms. However, because they reflect Patent Owner’s views as to the scope of the claims – including as Patent Owner seeks to enforce those claims in litigation – Requester submits the claim terms presented below should be construed no narrower than presented herein for purposes of this proceeding.

1. OPERATING SYSTEM UTILIZING SUBSYSTEMS FROM ANOTHER OPERATING SYSTEM

In the concurrent litigation, Patent Owner has construed the “operating system utilizing subsystems from [said] another operating system” limitation as covering a computer system with multiple software layers, where the higher layers provide the user experience and the lower layers provide underlying functionality. For instance, in the concurrent litigation, Patent Owner has alleged that Requester’s product MAC OS X VERSION 10.5 LEOPARD meets the two operating systems requirements because it is a single operating system that includes multiple layers, including a core environment layer based in UNIX and a User Experience Layer:



OTH-B, Attachment B-1, pg. 27-29.

As demonstrated by its own application of “operating system utilizing subsystems from [said] another operating system,” Patent Owner believes that the broadest reasonable construction of these limitations includes the use of a computer system with

multiple software layers, including layers for core services and for user experience. As will be established by the arguments presented below, applying this broadest reasonable construction, these limitations were well known in the art at the time of Patent Owner's alleged invention.

2. DOCUMENT ORGANIZING FACILITY RECEIVING DOCUMENTS / DOCUMENT ORGANIZING FACILITY ASSOCIATING SELECTED INDICATORS / DOCUMENT ORGANIZING FACILITY ASSOCIATING CHRONOLOGICAL INDICATORS (“THE DOCUMENT ORGANIZING FACILITY LIMITATIONS”)

In the concurrent litigation, Patent Owner has alleged that Requestor's products meet the document organizing facility limitations if the products include an index of files on a computer. Specifically, Patent Owner accuses Requester's product SPOTLIGHT of having a “main stream” because SPOTLIGHT “indexes your hard drive.” OTH-B, Attachment B-1, pp. 29, 31, 34, 36 (citing Attachment A-1, pp. 1-5). Patent Owner further notes that “[t]he Spotlight Store is a file system-level database that holds all of the meta-data attributes about the files, as well as an index of their contents, on a file system. As each file is created, copied, updated, or deleted, Spotlight will ensure that both the content index and the meta-data store entries for that file are updated.” OTH-B, Attachment B-1, pp. 29, 31, 34, 36 (citing Attachment A-1, pp. 1-5).

As demonstrated by its own application of the document organizing facility limitations, Patent Owner believes that the broadest reasonable construction of these limitations would encompass either a collection of documents or a collection of information about documents, such as an index. As will be established by the arguments presented below, applying this broadest reasonable construction of the document organizing facility limitations, these limitations were well known in the art at the time of Patent Owner's alleged invention.

3. ASSOCIATING SELECTED INDICATORS WITH THE RECEIVED DOCUMENTS / ASSOCIATING SELECTED INDICATORS WITH THE RECEIVED OR CREATED DOCUMENTS / TIME-BASED INDICATORS AUTOMATICALLY ASSOCIATED WITH THE DOCUMENTS AT THE TIME OF RECEIPT OR CREATION THEREOF

In the concurrent litigation, Patent Owner alleges that the “selected indicators” and “time-based indicators” claimed in the '427 patent correspond to the “timestamp to identify” limitation of the '227 patent. OTH-B, Attachment B-1, pp. 29, 32, 34, 36 (citing Attachment A-1, p. 6).

During prosecution of the '227 patent, Patent Owner stated that “[a] ‘timestamp’ is a date/time used to uniquely identify each data unit.” PAT-C, Pros. His., paper 18, Response to Non-Final Rejection, 5/7/99, p. 11. In the concurrent litigation, Patent Owner argues that the accused products include a timestamp because an MDItem object in Requester’s product SPOTLIGHT “‘contains a dictionary of the various meta-data attributes of that file organized as unique keys,’ *which includes timestamp information.*” OTH-B, Attachment A-1, pg. 6 (emphasis added).

As demonstrated by its own application of the limitations “selected indicators” and “time-based indicators,” Patent Owner believes that the broadest reasonable construction of “associating selected indicators with the received documents,” “associating selected indicators with the received or created documents,” and “time-based indicators automatically associated with the documents at the time of receipt or creation thereof,” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information. As will be established by the arguments presented below, applying this broadest reasonable construction, these limitations were well known in the art at the time of Patent Owner’s alleged invention.

4. ASSOCIATING CHRONOLOGICAL INDICATORS WITH DOCUMENTS RECEIVED

Although Patent Owner argued during prosecution of the '227 patent, to which the '427 claims priority, that a “chronological indicator” includes a timestamp and is used to organize data units, Patent Owner has argued in litigation that a “chronological indicator” is a collection of meta-data, such as indexed meta-data, when that meta-data includes timestamps. PAT-C, '227 Pros. His., paper 18, Preliminary Amendment, 10/16/98, p. 10; OTH-B, Attachment B-1, pp. 36 (citing Attachment A-1, p. 6). Specifically, Patent Owner alleges that Requester’s product SPOTLIGHT has a chronological indicator, a MDItem, because a “MDItem is a simple wrapper around a file’s meta-data attributes. A file’s meta-data attributes include timestamp information.” OTH-B, Attachment B-1, pp. 36 (citing Attachment A-1, p. 6).

As a result, as demonstrated by its own application of the “chronological indicator” limitation, Patent Owner believes that the broadest reasonable construction of “chronological indicator” includes not only chronological indicators such as past, present and future to organize documents within the streams but also collections of meta-data that

include timestamps. Moreover, as demonstrated by its own application of the limitations “chronological indicators,” Patent Owner believes that the broadest reasonable construction of “associating chronological indicators with documents received,” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information. As will be established by the arguments presented below, this limitation was well known in the art at the time of Patent Owner’s alleged invention.

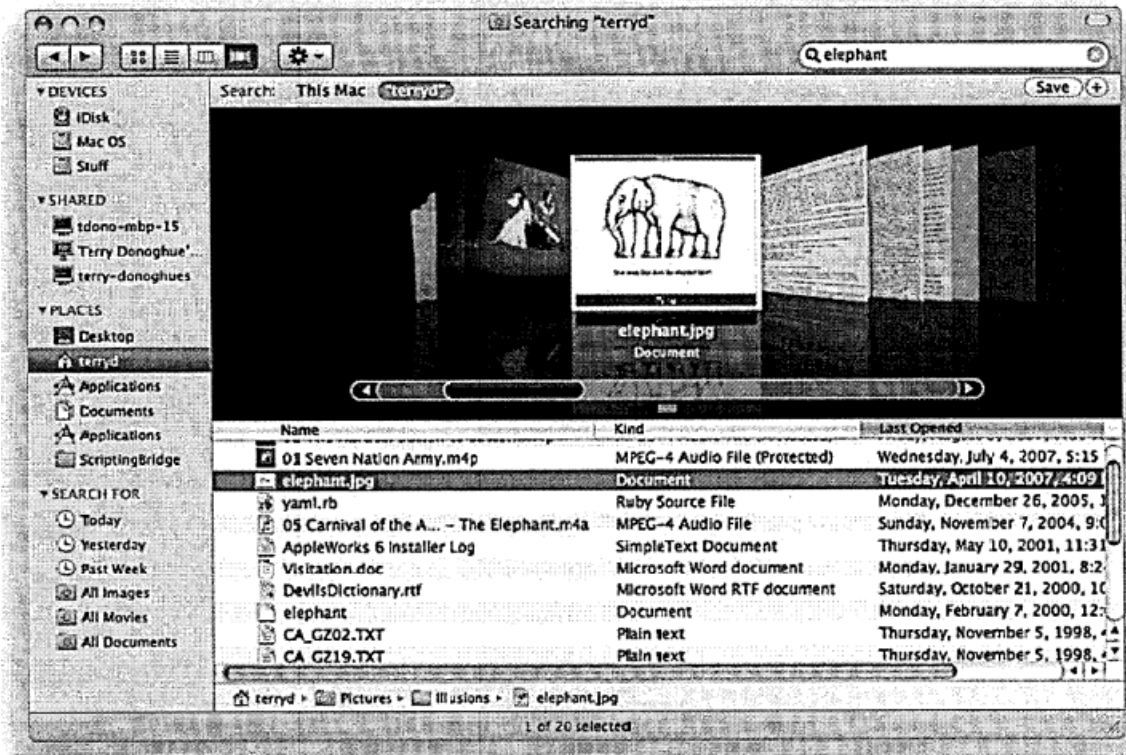
5. AUTOMATICALLY ARCHIVING

In the concurrent litigation, Patent Owner has construed “automatically archiving the received documents” as archival and back-up systems. For instance, in the concurrent litigation, Patent Owner has alleged that Requester’s product TIME MACHINE includes automatic archiving because “Time Machine is an application that automatically and transparently backs up the user’s files to a designated storage system.” OTH-B, Attachment B-1, p. 29. Patent Owner further alleges that Requester’s product TIME MACHINE includes automatic archiving because “Time Machine is a breakthrough automatic backup” that “keeps an up-to-date copy of everything on your Mac.” OTH-B, Attachment B-1, p. 29.

As demonstrated by its own application of “automatically archiving the received documents,” Patent Owner does not distinguish between archiving and backup, and believes that the broadest reasonable construction of this limitation includes both archival and back-up. As will be established by the arguments presented below, applying this broadest reasonable construction of the “automatically archiving the received documents” limitation, this limitation was well known in the art at the time of Patent Owner’s alleged invention.

6. RECEDING, FORESHORTENED STACK OF PARTLY OVERLAPPING DOCUMENTS

In the concurrent litigation, Patent Owner has alleged that Requester’s product COVER FLOW includes a “receding, foreshortened stack of partly overlapping documents” because it includes the interface depicted below:



OTH-B, Attachment B-1, p. 30 (citing Exhibit 25 as “displaying Cover Flow interface in which selected document representations are displayed as a receding, overlapping, foreshortened stack”).

As demonstrated by its own application of “receding, foreshortened stack of partly overlapping documents,” Patent Owner believes that the broadest reasonable construction of this limitation includes a three-dimensional representation of partly-overlapping icons of the same size. As will be established by the arguments presented below, applying this broadest reasonable construction, this limitation was well known in the art at the time of Patent Owner’s alleged invention.

VI. STATEMENT OF SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY

The ‘427 patent was allowed after the Patent Owner complied with a restriction requirement. PAT-B, Pros. His., paper 9, 10/9/03. No prior art rejections were cited. While the ‘427 patent’s parent applications were not mentioned in the file history, it is likely the claims of the ‘427 patent claims were allowed for a similar reason as its parent, U.S. Patent 6,006,227 (the ‘227 patent).

As recognized by the Examiner during prosecution of the ‘227 patent, the concepts at the heart of the ‘227 patent were well known in the art and were not novel at

the time of the invention. As such, the Examiner made clear that the reason for allowing the '227 patent was not merely the use of main streams and substreams to organize documents in a time-based manner, but rather, was limited to the Patent Owner's argument that its invention as specifically directed to the use of "chronological indicators" such as past, present and future to refine the organization of streams based on timestamps:

The use of timelines or timestamps to organize arbitrary records and documents is well known in the art, as evidenced by a number of the references cited. In particular, Reitz, USPAT 5,649,182, provides for the generation of subsets of the main stream of records organized by the timestamps and determined by attributes, which subsets correspond to persistent substreams. However, the prior art of record does not anticipate nor suggest the use of chronological indicators such as past, present, future to further categorize the timestamp organization of the stream.

PAT-C, Pros. His., paper 19, Notice of Allowability, 5/18/99. The Examiner's statement shows that he understood that it was known at the time that a system could be designed such that documents are organized according to timestamps.² It was also known that a system with a main stream of documents organized according to timestamp could be filtered in order to generate substreams having particular attributes.³ Thus, the Examiner made clear that the reason for allowance over the prior art was the use of chronological indicators such as past, present and future to organize documents within the streams, and not the well known and widespread use of timestamps to organize documents or files.

The claim limitations that provided the Examiner with this reason for allowance require "associating each data unit with at least one chronological indicator having the respective timestamp" and "including each data unit according to the timestamp in the respective chronological indicator in the main stream." The Patent Owner had repeatedly emphasized to the Examiner that these limitations distinguished its invention from the prior art. For example, Patent Owner emphasized to the Examiner in their October 16,

² See e.g. U.S. Patent No. 5,649,182 ("Reitz") at 1:47-52 (prior art describing "a processor operable to automatically organize the database records in a timeline sequence according to the calendar date associated with each of the database records").

³ See e.g. U.S. Patent No. 5,649,182 ("Reitz") at 2:30-35 ("selecting any number of filtering criteria such that only data messages having filtering identifiers in common with the selected filtering criteria are formed into a data message subset, and such that each of the data entries in the subset is sequentially organized by its associated calendar date.")

1998 Preliminary Amendment that they had amended the claims to emphasize not just selecting a timestamp to identify each data unit, but also “associating each data unit with a chronological indicator including the timestamp, linking each data unit into a data unit stream according to the timestamp, and storing the data unit stream according to the chronological indicators.” PAT-B, Pros. His., paper 13 at p.15, Preliminary Amendment, 10/16/98. The Patent Owner then went on to explain that these steps were not taught by the prior art. *E.g. id.* at p.15 (“The Gelernter Article ... does not teach or suggest the identification, association, linkage, and storage steps or means ...”).

However, as described above, in the concurrent litigation Patent Owner has argued that what it called the “associating”⁴ and “linking”⁵ claim limitations are satisfied by a collection of meta-data describing documents or files, such as an index of such meta-data, when that meta-data includes timestamps. Specifically, Patent Owner alleges that Requester’s product SPOTLIGHT infringes the limitation “associating each data unit with at least one chronological indicator having the respective timestamp” because it contains a “meta-data store” that “represents each file as an MDItem object,” where “MDItem is a simple wrapper around a file’s meta-data attributes” that “includes timestamp information.” OTH-B, Attachment A-1, pg. 6. Patent Owner has further alleged that SPOTLIGHT infringes the limitation “including each data unit according to the timestamp in the respective chronological indicator in the main stream” because “the Spotlight Store is a file system-level database that holds all of the meta-data attributes about the files, as well as an index of their contents, on a file system.” OTH-B, Attachment A-1, pg. 6-7.

Thus, as demonstrated by its own application of the “associating” and “linking” claim limitations in the concurrent litigation, Patent Owner believes that the broadest reasonable construction of these limitations includes not only the what the Examiner saw as allowable—using chronological indicators such as past, present and future to further categorize time-organized streams—but also a collection of indexed meta-data when that meta-data includes timestamps. As will be established by the arguments presented below, applying Patent Owner’s own construction of these limitations as applying to indexed meta-data that includes timestamps shows that they were well known in the art

⁴ “associating each data unit with at least one chronological indicator having the respective timestamp”

⁵ “including each data unit according to the timestamp in the respective chronological indicator in the main stream”

years prior to Patent Owner's priority date. The Mander and Magellan references, in particular, provide detailed disclosure of compiling an index of meta-data, including timestamps, for the files on computer system.

Moreover, even what the Examiner saw as allowable—using chronological indicators such as past, present and future to further categorize time-organized streams—was well-known in the art at the time. For example, as demonstrated below, the Mander reference specifically describes creating piles of documents that are “dated after a certain date” based on its a collection of indexed meta-data for the files in a computer system, in addition to sorting piles of documents based on their date. Mander at 22:34-46; 23:48-50; 20:60-65.

Requester submits that, just as the '227 patent, the '427 was improperly allowed. Claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of the '427 patent are fully anticipated under 35 U.S.C. § 102 and/or rendered obvious under 35 U.S.C. § 103 by the several different prior art references cited herein, which, were not previously considered by the Examiner during the examination of the '427 patent application or which are discussed in a new light from the original prosecution of the '427 patent application. Claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of the '427 patent are set forth in detail in the attached claim charts (Exhibit CC-A to CC-B) that compares the limitations of the claims of the '427 patent to the pertinent prior art references. As the claim chart demonstrates, claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 are unpatentable under 35 U.S.C. §§ 102-103 in view of the prior art references under any reasonable interpretation of the claims.

Accordingly, as disclosed by the references below, the use of chronological indicators to further categorize streams and substreams was well known in the art at the time the '427 patent was filed.

A. MANDER ANTICIPATES CLAIMS 16, 17, 18, 19, 22, 24, 25, 26, 29, 31, 32, 33, 34, 37 UNDER 35 U.S.C. § 102.⁶

Mander was filed August 8, 1994 as a continuation of application No. 07/876,921 (filed on April 30, 1992) and published June 5, 2001. Therefore, Mander is prior art under 35 U.S.C. §102(b). Although Mander is cited on the face of the '427

⁶ Although Requester has detailed the bases for invalidity of the identified claims of the '427 patent herein, Requester has also included additional citations to the disclosure in Mander in Exhibit CC-A to assist the Office.

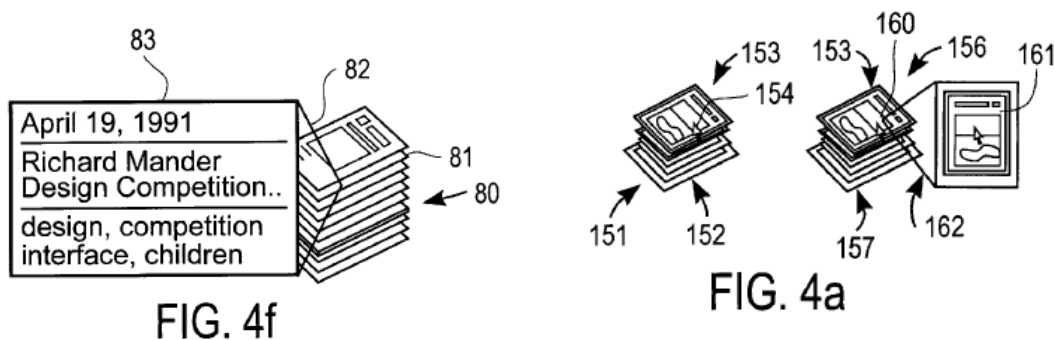
patent, it was never cited by the Examiner or used in a rejection of any claim of the '427 patent. Here, Mander is discussed in a new light from the original prosecution of the '427 patent application.

Mander discloses a system that indexes all files along with any metadata, and associates these files with folders called "piles." Mander at Fig. 15. Specifically, Mander discloses a system that 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). Mander at Abstract, 2:63-66, and 24:8-18. Each data unit in the system is stored in a filing system which includes indexed data information and the data units are placed into piles that may be further organized into one or more subpiles. Mander at 5:42 to 6:4, 25:21-37. The index stores information about the file that is useful in categorizing the file into a "pile" such as the frequency of each word's occurrence in a file. Mander at 24:34-42. Mander provides a detailed description of the algorithms used to create this index. Mander at 24:7-26:63.

Just as in the '427 patent, each file is associated with a timestamp which is either selected by the system or by the user, and recorded in a date line field of the document or are recorded by the file system. Mander at 33:34-43. Documents may further be sorted into categories based on date. Mander at 23:39-51 and 33:35-36. One example of such a category is a label categorizing the documents in a pile. Mander discloses that piles are described by scripts and may be controlled by labels. The labels are existing controls or criteria that may be selected, and upon selection, control the functioning of a pile. Mander at 23:39-51; 33:35-36. For example, a user may choose to include only files created after a certain date. Mander at 22:34-46 and 23:48-50. Another example of a category based on date is a color coding scheme. Each data unit timestamped with an older date may be colored blue, while each data unit timestamped with a new date may be a brighter color. Mander at 33:42-62 ("the user selects the command "color by date" ...). Another example is creating a pile based on date. Mander at 22:43-47 ("if the user selects the option of collecting items which are dated April 19, 1991 ...").

Mander also discloses a variety of visualization options for piles and the documents within them. Specifically, Mander discloses document views called "proxies." Mander at 3:21-25. The proxies can be any number of different forms including a miniature representation of the document itself which can be paged through,

or can be a sampling of the information in the document. See Mander at Fig. 4 for several different embodiments.



Mander is capable of seamless operation with an operating system, such as an Apple operating system. Mander at 36:56-37:4. Mander will utilize certain programs of the operating system to perform some of its functions. Mander is also capable of service in a networked environment. Mander at 8:14-16. Mander may be present on a client computer and rely on a network email server's email program to generate email documents to be received and indexed by Mander. Mander at 8:22-24.

In short, Mander discloses the essential concepts (and more) of the '427 Patent – organizing and displaying documents in a computer system according to timestamps and/or pre-assigned chronological labels, and for automatically organizing new documents. Indeed, Mander anticipates each of claims 16, 17, 18, 19, 22, 24, 25, 26, 29, 31, 32, 33, 34, 37. A detailed application of the prior art to each element of the requested claims is presented in Exhibit CC-A and below.

1. CLAIM 16

16. A controlling operating system utilizing subsystems from another operating system running a computer, comprising:

As discussed above Section V.B (Claim Construction), the Patent Owner's own application of "operating system utilizing subsystems from [said] another operating system" in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes the use of a computer system with multiple software layers, including layers for core services and for user experience. Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems. Specifically, Mander discloses that

the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

a document organizing facility associating selected indicators with received or created documents and creating information specifying glance views of the respective documents and information specifying document representations of the respective documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility associating selected indicators with receive or created documents" would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of "associating selected indicators with the received documents" includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, Mander discloses a document organizing facility associating indicators with the documents received by the system. Specifically, Mander discloses that the file system may select a timestamp for the document or the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that documents from diverse application are automatically associated with indicators for any new document if the user instructs the system to carry out this step automatically. Mander at 28:5-12 ("It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function automatically."). Mander also discloses that this timestamp information is indexed and can be used to sort and list documents by date, as well as to generate a pile of documents "dated after a certain date." *See, e.g.*, Mander at 33:34-63; 22:42-46; 23:48-50.

In addition, Mander teaches that the system automatically creates document representations of the respective documents that form a pile and glance views that are abbreviated versions of certain documents in a pile. Specifically, “According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.” Mander at 7:1-6. For example, Figure 4a of Mander discloses a “pile” (151) of document representations (153) stacked on top of a base (152). Mander at 9:49-54. Figure 4a further discloses a “view cone 162 [that] points to or is connected on one side (the apex or smaller side) to the collection of documents” and “the other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing”:

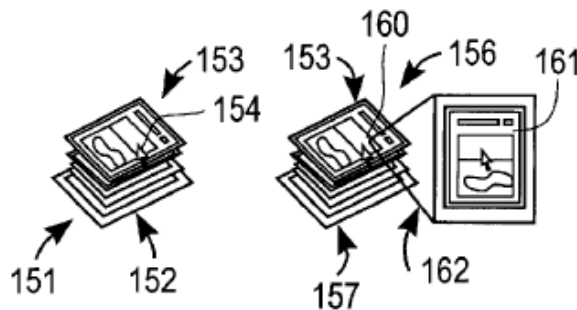


FIG. 4a

Mander at FIG. 4a.

Mander goes on to teach that a proxy can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

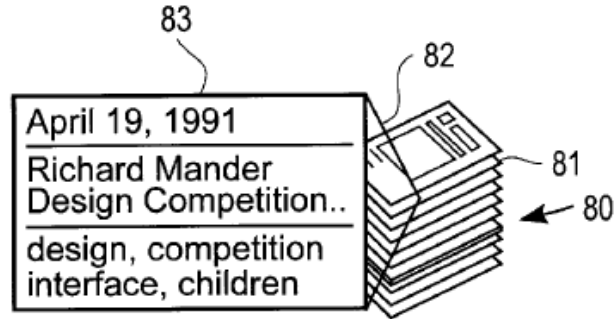


FIG. 4f

Mander at FIG. 4f. For example, in one embodiment, Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

a display facility displaying at least selected ones of said document representations

Mander discloses the use of a display for displaying document representations to a user. Mander at 5:58-62 (“The display controller 18 is coupled to the system bus 15 and receives commands and data from the processing means 10 and from the memory means 11 via the system bus 15. The display controller 18 controls the display device 19 in order to provide images on a display screen 22.”); Mander at 7:1-6. (“According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.”).

said displaying further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over a portion of displayed document representation to display the glance view of the document whose document representation is touched by the cursor or pointer; and

Mander discloses that when a cursor or pointer displayed on the display is positioned over a pile for a predetermined period of time the system displays a view cone with a proxy of the document that was touched by the cursor or pointer. Specifically, Mander discloses “In the preferred embodiment of the present invention, the user positions the cursor 154 over the graphical representation of the pile and allows the cursor to remain positioned over the pile for a predetermined period of time. After that

predetermined period of time, the computer system displays a view cone 162 with a proxy 161 in order to allow the user to browse through the documents in the collection of documents comprising the pile. As shown in FIG. 4a, the view cone 162 points to or is connected on one side (the apex or smaller side) to the collection of documents, and the apex is positioned to correspond to the document which has been selected for viewing in the browsing environment. The other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing.” Mander at 9:54-10:1; *see also* Mander at 10:11-20 (“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.”). Figure 16 shows a method for performing the operation of browsing a pile where a view cone is shown and a proxy of the selected document in the pile is displayed if the cursor remains pointed to a document for a predetermined period of time:

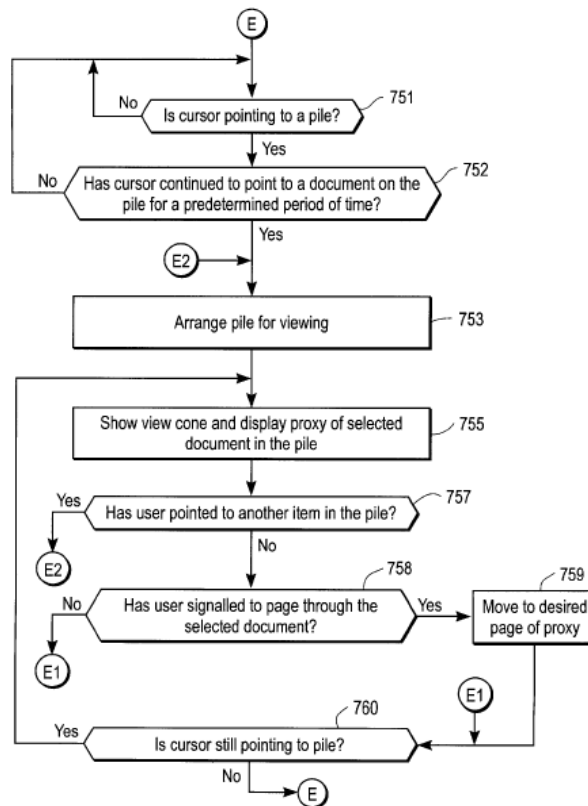


FIG. 16

Mander at FIG. 16; 26:66-27:40.

said controlling operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

As discussed above Section V.B (Claim Construction), the Patent Owner's own application of "operating system utilizing subsystems from [said] another operating system" in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes the use of a computer system with multiple software layers, including layers for core services and for user experience. Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems.

Specifically, Mander discloses that the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18; 8:13-28; 15:34-60. For example, Mander discloses that programs from the operating system may be used along with the disclosed filing system for providing operations such as controlling input from a mouse and output to a display. Mander at 24:8-18; 8:13-28; 15:34-60. Additionally the operating system utilizes programs to receive documents over a network system, such as emails and therefore handling input/output. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

2. CLAIM 17

17. An operating system as in claim 16 in which said selected indicators are time-based.

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility associating selected indicators with receive or created documents" would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of "associating selected indicators with the received documents" includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp

information.

Applying the broadest reasonable constructions of these terms, Mander discloses a document organizing facility associating time-based indicators with the documents received by the system. Specifically, Mander discloses that the file system may select a timestamp for the document or the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that documents from diverse application are automatically associated with time-based indicators for any new document if the user instructs the system to carry out this step automatically. Mander at 28:5-12 (“It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function automatically.”). Mander also discloses that this timestamp information is indexed and can be used to sort and list documents by date, as well as to generate a pile of documents “dated after a certain date.” *See, e.g.*, Mander at 33:34-63; 22:42-46; 23:48-50.

3. CLAIM 18

18. An operating system as in claim 16 in which said display facility displays said document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part of most document representations in the displayed stack is visible to the user.

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “a receding, foreshortened stack of partly overlapping documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes a three-dimensional representation of partly-overlapping icons of the same size. Applying the broadest reasonable construction of the “receding, foreshortened stack of partly overlapping documents” limitation, this limitation is disclosed in Mander. Specifically, Mander discloses displaying documents in a three-dimensional stack of partly overlapping icons of the same size wherein only part of most document representations below the top document in the stack are visible:

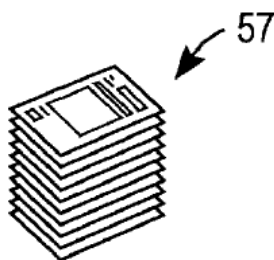


FIG. 2d

Mander at FIG. 2a-d.

4. CLAIM 19

19. An operating system as in claim 16 in which said document organizing facility receives said document in formats specific to heterogeneous applications and creates said information specifying said glance views to enable display of the glance views in a consistent format.

Mander discloses that documents may contain text, audio, video and/or multimedia data which will be created or received by the system in formats specific to heterogeneous applications. Mander at 4:9-11; 36:54-55; 36:46-48.

Mander further discloses that the system creates glance views. For example, “FIG. 15 shows one method according to the present invention for creating the internal representation used by the filing system in organizing piles, which internal representation is for each document in the filing system (or for a certain selected group of documents as specified by the user) and for every pile maintained in the filing system (or for piles which have been selected by the user to have their internal representation determined). Typically, the filing system will perform this operation for every document (usually user documents, not system documents such as operating system files) and for every pile in the system.” Mander at 24:8-16. Mander discloses that glance views can be displayed in a consistent format, such as the first page of the document which has been selected for browsing. Mander at 7:1-6. (“According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.”).

5. CLAIM 22

22. A stream-based operating system as in claim 16 in which said display of said glance view comprises an abbreviated version of the respective document.

In one embodiment, Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

6. CLAIM 24

24. A stream-based operating system as in claim 16 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Mander teaches that a proxy (glance view) can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

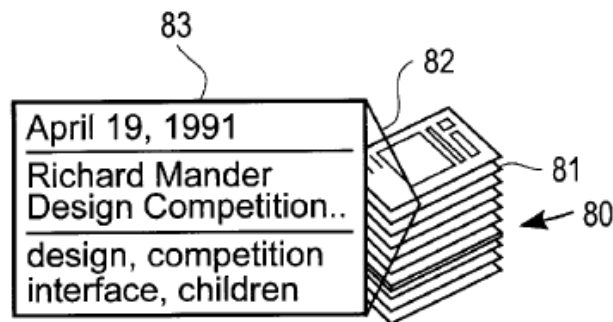


FIG. 4f

Mander at FIG. 4f.

7. CLAIM 25

25. A document stream operating system utilizing subsystems from another operating system running a computer, comprising:

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “operating system utilizing subsystems from [said] another operating system” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes the use of a computer system with

multiple software layers, including layers for core services and for user experience. Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems. Specifically, Mander discloses that the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

a document organizing facility associating chronological indicators with documents received from diverse applications in diverse formats and creating information specifying glance views of the respective documents and information specifying document representations of respective documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility associating chronological indicators with received or created documents" would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of "associating chronological indicators with documents received," includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, Mander discloses a document organizing facility associating chronological indicators with the documents received by the system. Specifically, Mander discloses that the file system may select a timestamp for the document or the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that documents from diverse applications (e.g., text, audio, video and/or multimedia data) are automatically associated with chronological indicators for any new document if the user instructs the system to carry out this step automatically. Mander at 28:5-12 ("It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function

automatically.”); Mander at 4:9-11; 36:54-55; 36:46-48. Mander also discloses that this timestamp information is indexed and can be used to sort and list documents by date, as well as to generate a pile of documents “dated after a certain date.” *See, e.g.*, Mander at 33:34-63; 22:42-46; 23:48-50.

In addition, Mander teaches that the system automatically creates document representations of the respective documents that form a pile and glance views that are abbreviated versions of certain documents in a pile. Specifically, “According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.” Mander at 7:1-6. For example, Figure 4a of Mander discloses a “pile” (151) of document representations (153) stacked on top of a base (152). Mander at 9:49-54. Figure 4a further discloses a “view cone 162 [that] points to or is connected on one side (the apex or smaller side) to the collection of documents” and “the other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing”:

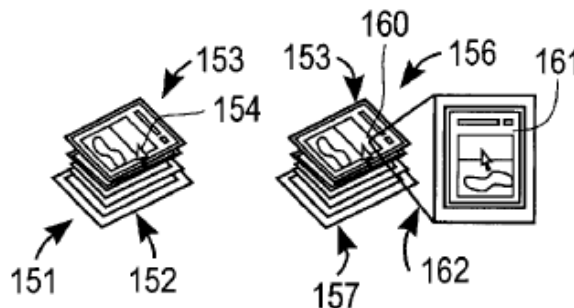


FIG. 4a

Mander at FIG. 4a.

Mander goes on to teach that a proxy can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

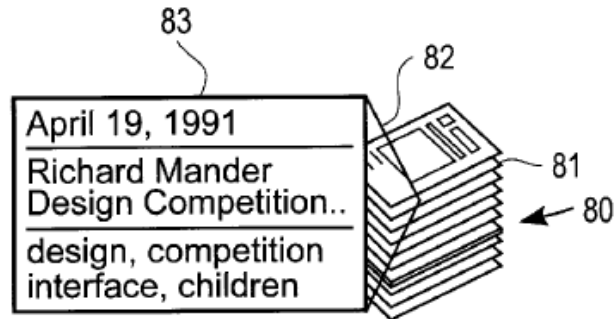


FIG. 4f

Mander at FIG. 4f. For example, in one embodiment, Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

a display facility displaying at least selected ones of said document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part each document representation except the first one in the displayed stack is visible to a user;

Mander discloses the use of a display for displaying document representations to a user. Mander at 5:58-62 (“The display controller 18 is coupled to the system bus 15 and receives commands and data from the processing means 10 and from the memory means 11 via the system bus 15. The display controller 18 controls the display device 19 in order to provide images on a display screen 22.”); Mander at 7:1-6. (“According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.”).

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “a receding, foreshortened stack of partly overlapping documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes a three-dimensional representation of partly-overlapping icons of the same size. Applying the broadest reasonable construction of the “receding, foreshortened stack of partly overlapping documents” limitation, this limitation is disclosed in Mander. Specifically, Mander discloses displaying documents

in a three-dimensional stack of partly overlapping icons of the same side wherein only part of most document representations below the top document in the stack is visible:

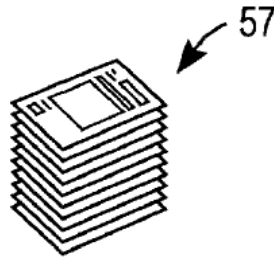


FIG. 2d

Mander at FIG. 2a-d.

said display facility further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over said displayed stack of document representations to display the glance view of the document whose document representation is currently touched by the cursor; and

Mander discloses that when a cursor or pointer displayed on the display is positioned over a pile for a predetermined period of time the system displays a view cone with a proxy of the document that was touched by the cursor or pointer. Specifically, Mander discloses “In the preferred embodiment of the present invention, the user positions the cursor 154 over the graphical representation of the pile and allows the cursor to remain positioned over the pile for a predetermined period of time. After that predetermined period of time, the computer system displays a view cone 162 with a proxy 161 in order to allow the user to browse through the documents in the collection of documents comprising the pile. As shown in FIG. 4a, the view cone 162 points to or is connected on one side (the apex or smaller side) to the collection of documents, and the apex is positioned to correspond to the document which has been selected for viewing in the browsing environment. The other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing.” Mander at 9:54-10:1; *see also* Mander at 10:11-20 (“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.”). Figure 16 shows a method for performing the operation of

browsing a pile where a view cone is shown and a proxy of the selected document in the pile is displayed if the cursor remains pointed to a document for a predetermined period of time:

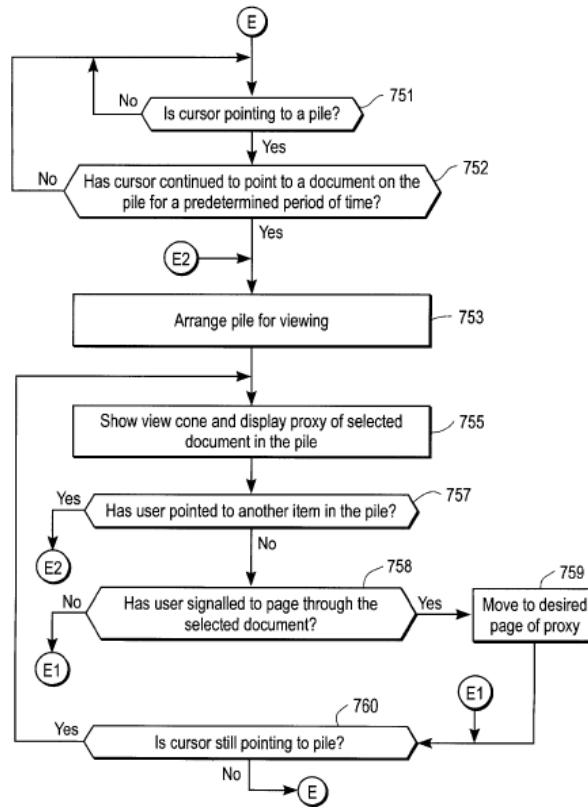


FIG. 16

Mander at FIG. 16; 26:66-27:40.

said document stream operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “operating system utilizing subsystems from [said] another operating system” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes the use of a computer system with multiple software layers, including layers for core services and for user experience. Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems.

Specifically, Mander discloses that the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18;

8:13-28; 15:34-60. For example, Mander discloses that programs from the operating system may be used along with the disclosed filing system for providing operations such as controlling input from a mouse and output to a display. Mander at 24:8-18; 8:13-28; 15:34-60. Additionally the operating system utilizes programs to receive documents over a network system, such as emails and therefore handling input/output. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

8. CLAIM 26

26. A document operating system as in claim 25 in which said document organizing facility associates said chronological indicators with documents at the time of receipt or creation of said documents without requiring a user to name the documents.

Mander teaches that its document organizing system handles email. *See, e.g.*, Mander at Fig. 2E; 2: 32-40; 8:13-36. Email received by a user is not required to be named by the user. In fact, Mander teaches that its document organizing capabilities are "particularly useful" for email precisely because the document organizing capabilities can be used to sort email into piles and subpiles even where "the user does not know the content of the documents." Mander at 8:20-21, 8:30-31. As described above, the document organizing system taught by Mander associates chronological indicators with the documents at the time they are received or created, including email documents that are not named by the user.

9. CLAIM 29

29. A stream-based operating system as in claim 25 in which said display of said glance view comprises an abbreviated version of the respective document.

Mander teaches glance views called proxies, which are "miniature[s] of the first page of the document that has been selected for browsing." Mander at 9:54-10:1; 12:10-11.

10. CLAIM 31

31. A stream-based operating system as in claim 25 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Mander teaches that a proxy (glance view) can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

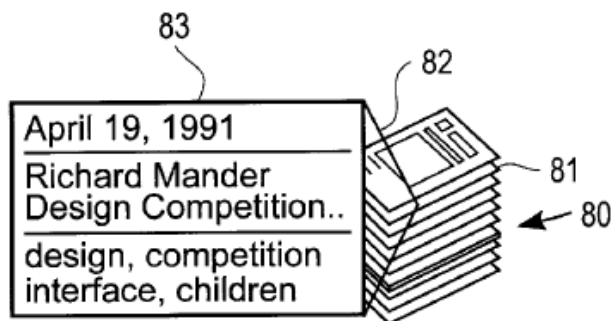


FIG. 4f

Mander at FIG. 4f.

11. CLAIM 32

32. A method of displaying heterogenous documents from different applications in a receding, foreshortened stack of selected document representations of said documents and providing a set of commands applicable to the document representations in the stack, comprising:

Mander discloses that documents from diverse applications (e.g., text, audio, video and/or multimedia data) are automatically associated with chronological indicators for any new document. Mander at 4:9-11; 28:5-12; 36:54-55; 36:46-48. Mander further discloses the use of a display for displaying document representations of such documents to a user. Mander at 5:58-62 (“The display controller 18 is coupled to the system bus 15 and receives commands and data from the processing means 10 and from the memory means 11 via the system bus 15. The display controller 18 controls the display device 19 in order to provide images on a display screen 22.”); Mander at 7:1-6. (“According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon

of the document type, a set of keywords related to the document or a set of attributes relating to the document.”).

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “a receding, foreshortened stack of partly overlapping documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes a three-dimensional representation of partly-overlapping icons of the same size. Applying the broadest reasonable construction of the “receding, foreshortened stack of partly overlapping documents” limitation, this limitation is disclosed in Mander. Specifically, Mander discloses displaying documents in a three-dimensional stack of partly overlapping icons of the same size wherein only part of most document representations below the top document in the stack is visible:

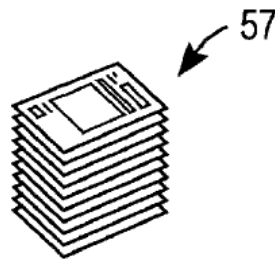


FIG. 2d

Mander at FIG. 2a-d.

first displaying document representations of said documents received from different applications as a receding, foreshortened stack of partly overlapping document representations such that only a part of each of most document representations in the displayed stack is visible to the user;

As discussed above, applying the broadest reasonable construction of the “receding, foreshortened stack of partly overlapping documents” limitation, Mander discloses displaying documents in a three-dimensional stack of partly overlapping icons of the same size wherein only part of most document representations below the top document in the stack is visible. Mander at FIG. 2a-d.

said stack being in a time order related to respective time-based indicators automatically associated with the documents at the time of receipt or creation thereof;

Mander discloses that the file system may select a timestamp for a document or that the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that documents from diverse application are automatically associated with indicators for any new document if the user instructs the system to carry out this step automatically. Mander at 28:5-12 (“It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function automatically.”).

Mander further discloses that timestamp information is indexed and can be used to sort and list documents by date. Specifically, Mander discloses that, “in step 957, the user selects the command ‘order by date’ and the system orders documents in the pile by the date of the document. It is appreciated that step 957 is a two-part process even though it is shown as one. This may be done in any of the well known ways of sorting and listing documents by the date of the document. This date may be either the date maintained by the filing system of the document or may be a date line (field) of the document which is contained in the contents of the document and was provided by the author of the document.” Mander at 33:34-43.

subsequently, while displaying the stack of document representations, responding automatically to touching a document representation in the stack with a user-operated cursor or pointer, without further action by the user, to display separately from the displayed stack of document representations, a glance view of the document whose document representation is currently touched by the cursor or pointer, said glance view being displayed while the displayed stack of document representations remains visible; and

Mander discloses that when a cursor or pointer displayed on the display is positioned over a pile for a predetermined period of time the system displays a view cone with a proxy of the document that was touched by the cursor or pointer. The pile remains visible even as the view cone is displayed.

Specifically, Mander discloses “In the preferred embodiment of the present invention, the user positions the cursor 154 over the graphical representation of the pile and allows the cursor to remain positioned over the pile for a predetermined period of time. After that predetermined period of time, the computer system displays a view cone 162 with a proxy 161 in order to allow the user to browse through the documents in the

collection of documents comprising the pile. As shown in FIG. 4a, the view cone 162 points to or is connected on one side (the apex or smaller side) to the collection of documents, and the apex is positioned to correspond to the document which has been selected for viewing in the browsing environment. The other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing.” Mander at 9:54-10:1; *see also* Mander at 10:11-20 (“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.”).

Figure 16 shows a method for performing the operation of browsing a pile where a view cone is shown and a proxy of the selected document in the pile is displayed if the cursor remains pointed to a document for a predetermined period of time:

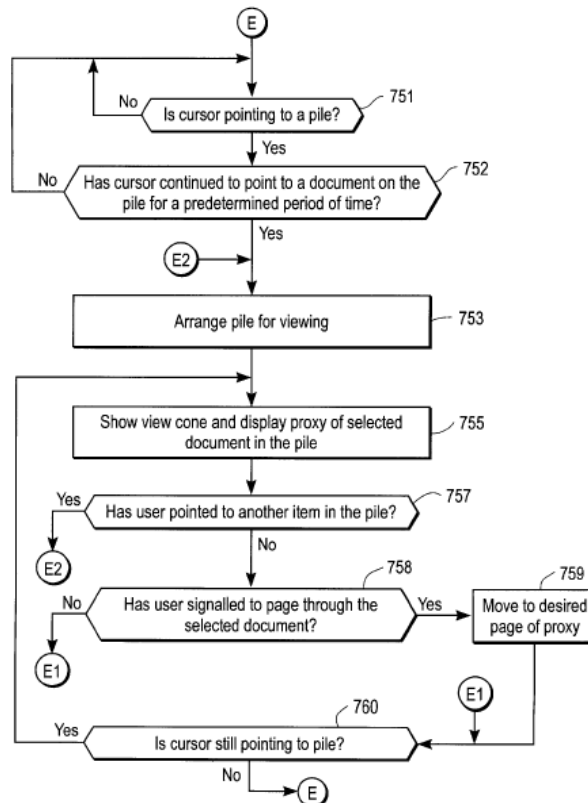


FIG. 16

Mander at FIG. 16; 26:66-27:40.

concurrently with displaying said glance view, displaying in the same display a set of command buttons, said command buttons being responsive to user clicks to cause respective operations to be

performed on the document whose glance view is displayed at the time.

Mander further discloses that its display shows command buttons that are responsive to user clicks to cause operations to be performed on the document that is displayed. For example, Mander discloses that “[t]ypically, the user would select the pile 550 and then select a command from the computer which would invoke and display this visualization window with the selected pile 550 within the window 551. The window 551 includes several command options which allow the user to view the pile in different ways and to order the contents of the pile in different ways and to select between those different ways in order to obtain different appearances of the pile or to otherwise reorganize the pile (e.g. create subpiles from a single original pile). For example, by placing the cursor over the arrow icon 555 and by selecting the icon 555 by depressing the mouse button or otherwise signalling to the computer to select the arrow icon 555, the user causes the computer to display a pull down menu indicating the various ways in which the contents of the pile may be ordered.” 19:63 – 20:9. Fig. 13a is one example of such a display disclosed in Mander:

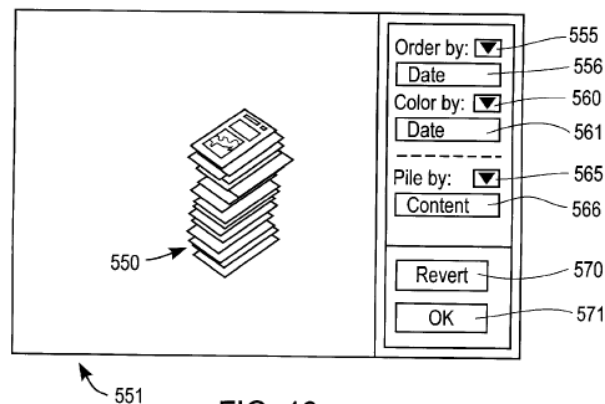


FIG. 13a

Mander at FIG. 13a.

12. CLAIM 33

33. A method as in claim 32 in which said displaying of document representations comprises displaying at least the top line of each document whose document representation is displayed in the stack.

Mander discloses that the document representations displayed in the receding foreshortened stack may comprise miniatures of the first page of the document. Mander at 7:1-10 (“According to the preferred embodiment, each document in the pile

represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document. In this manner, the first page of the document serves as a proxy (indicia) indicating the content of the document, thereby providing the user with information concerning what the representation represents (i.e. what is contained within the document).”). In such cases, only a portion of each document representation is visible, including for example, the top line of each document in the stack.

13. CLAIM 34

34. A method as in claim 32 including visually identifying attributes of selected documents in the displayed stack of document representations by markings that are visible in the displayed stack, each marking being common to a class of documents.

Mander further discloses that visually identifying attributes or markings can be used to identify classes of documents. For example, Mander teaches the use of icons or exaggerated features to identify particular types of documents, such as an exaggerated spreadsheet grid to depict spreadsheet documents. Mander at 11:65-12:3 (“It will be appreciated that if a folder is placed within a pile the proxy for the folder may itself be the icon of the folder or may be a representation showing documents within the folder (e.g. an icon of a folder is displayed with smaller icons representing documents shown within the folder.”); 11:57-60 (“To refresh the user’s memory about the document, certain features of the document may be exaggerated (e.g. if the document is a spreadsheet a grid may be exaggerated on the proxy to represent the spreadsheet).”). As another example, Mander discloses that “a different color could be used for various documents and a different texture could be used for different documents to convey information to the user.” Mander at 7:60-63.

14. CLAIM 37

37. A stream-based operating system as in claim 32 in which said display of said glance view comprises an abbreviated version of the respective document.

Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

15. CLAIM 39

39. A stream-based operating system as in claim 32 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Mander teaches that a proxy (glance view) can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

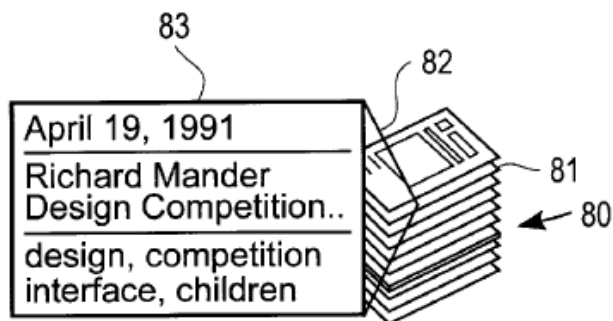


FIG. 4f

Mander at FIG. 4f.

B. CLAIMS 1, 2, 5, 7, 8, 9, 10 AND 13 ARE RENDERED OBVIOUS BY MANDER IN VIEW OF RETROSPECT UNDER 35 U.S.C. § 103.⁷

In this Section, Mander is analyzed in view of Retrospect. Retrospect is the name of commercial Macintosh software for automatic backup of files that was widely distributed in the 1990s. The 1995 Retrospect Users’s Guide (“Retrospect”) is a printed publication that is prior art under 35 U.S.C. §102(a) and (b) and is asserted under 35 U.S.C. § 103. Retrospect was not before the Examiner during the prosecution of the ‘427 patent.

As set forth below, the combination of Mander and Retrospect discloses the essential concepts (and more) of the ‘427 Patent and renders obvious each of claims 1, 2, 5, 7, 8, 9, 10 and 13. A detailed application of the prior art to each element of the requested claims is presented in Exhibit CC-A and below.

⁷ Although Requester has detailed the bases for invalidity of the identified claims of the ‘427 patent herein, Requester has also included additional citations to the disclosure in Mander in Exhibit CC-A to assist the Office.

1. A PERSON OF ORDINARY SKILL IN THE ART WOULD BE MOTIVATED TO COMBINE MANDER AND RETROSPECT

Both Mander and Retrospect were designed to work with the Macintosh computers of the 1990s, and one of ordinary skill would be motivated to combine the file organization and user interface of Mander and the archiving functionality of Retrospect for several reasons.

(i) COMBINING PRIOR ART ELEMENTS ACCORDING TO KNOWN METHODS TO YIELD PREDICTABLE RESULTS

MPEP § 2141.III states that “[e]xemplary rationales that may support a conclusion of obviousness include ... (A) Combining prior art elements according to known methods to yield predictable results.” The combination of the prior art Macintosh file system in Mander in combination with prior art archiving software would have been obvious under this rationale. Retrospect was specifically designed to perform backups for Macintosh systems, and the entire manual describes how this is done. Retrospect at p. v (“Introducing Retrospect”), p. 3 (“Retrospect requires System 7.0 or later Apple System software”). Thus, application of Retrospect to perform backups of a Macintosh file system was a known prior art method with known results.

Similarly, Mander was designed to work on a Macintosh computer’s file system. Mander at 6:27-29 (“In the preferred embodiment of the present invention, the file system operates on a Macintosh computer of Apple Computer, Inc.”). Thus, combining Retrospect with Mander’s preferred embodiment would be a combination of prior art elements according to the known methods of using Retrospect with a Macintosh computer’s file system. The result of the combination of Retrospect’s backup techniques with the Macintosh file system would yield predictable results that are described in the Retrospect reference, including that the archival method of backup employed by Retrospect ensures that backed up files are not deleted or written over until instructed by the user. Retrospect at p. v.

(ii) SUBSTITUTION OF ONE KNOWN ELEMENT FOR ANOTHER

One of ordinary skill in the art would be motivated to combine Mander with Retrospect as a substitution of one known element for another to obtain a predictable result. MPEP § 2141.III states that “[e]xemplary rationales that may support a conclusion

of obviousness include ... (B) Simple substitution of one known element for another to obtain predictable results.” The automatic archival backup method of Retrospect is a compatible alternative to the manual back-up of files that would be required in Mander. Indeed, there are predictable positive results associated with substituting an automatic archival backup for a manual backup, such as back up that does not require that the user attend the computer during the backup and that the archival method of back up ensures that backed up files are not deleted or written over until instructed by the user. Retrospect at p. v. Accordingly, one skilled in the art would be motivated to substitute the known automatic archival backup method of Retrospect for the known manual back-up method required in a system using Mander to obtain the predictable result of automated backups that ensure that files are maintained until the user elects to write over or delete them.

(iii) USE OF KNOWN TECHNIQUE TO IMPROVE SIMILAR METHODS IN THE SAME WAY

MPEP § 2141.III states that “[e]xemplary rationales that may support a conclusion of obviousness include ... (C) Use of known technique to improve similar devices (methods, or products) in the same way.” Once again, one of ordinary skill in the art would be motivated to use the known technique of Retrospect’s automatic archival backup for the Macintosh operating system with the similar system disclosed in Mander, in the same way. Design incentives would have prompted such a combination because it was well known that being able archive documents for later retrieval was desirable such as for backup/restore purposes, and also because it was well known that it was desirable to free expensive and scarce disk or memory space by archiving older files.

(iv) APPLYING A KNOWN TECHNIQUE TO A KNOWN DEVICE READY FOR IMPROVEMENT

MPEP § 2141.III states that “[e]xemplary rationales that may support a conclusion of obviousness include ... (D) Applying a known technique to a known device (method or product) ready for improvement to yield predictable results.” For the same reasons as above, one of ordinary skill in the art would be motivated to use the known technique of Retrospect’s automatic archival backup for the Macintosh operating system with the similar system disclosed in Mander. This is particularly true because

Mander does not expressly disclose a method or archival or backup and would thus be ready for improvement. For example, with the ability to archive documents, users of the Mander system could keep seldom-used files at the same time as local hard drive or memory space is freed up; furthermore, reliability of the system described in Mander could be increased because archived documents can be retrieved in the event of a crash or failure.

In sum, based on the similarities between the two systems and the well-known nature of archiving systems at the time the '427 patent was filed, a person of ordinary skill in the art would have considered it obvious to implement the Mander system with the archiving methods disclosed in Retrospect.

2. CLAIM 1

1. A stream-based operating system utilizing subsystems from another operating system running a computer, comprising:

As discussed above Section V.B (Claim Construction), the Patent Owner's own application of "operating system utilizing subsystems from [said] another operating system" in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes the use of a computer system with multiple software layers, including layers for core services and for user experience. Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems. Specifically, Mander discloses that the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

a document organizing facility receiving documents created by diverse applications in diverse formats specific to the respective applications;

Mander discloses a system that receives documents created by diverse applications such as email, spreadsheets, digitized movies and text documents in formats

specific to the respective applications. Mander at 8:14-28; 24:25-28; 22:24-27; 13:58-60; 36:30-32.

said document organizing facility automatically associating respective selected indicators with the received documents, automatically archiving the documents and indicators in consistent format for selective retrieval, and automatically creating information specifying respective glance views of said documents and respective document representations of said documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of “document organizing facility automatically associating respective selected indicators with the received documents” would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of “associating selected indicators with the received documents” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, Mander discloses a document organizing facility automatically respective selected indicators with the received documents. Specifically, Mander discloses that the file system may select a timestamp for the document or the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that documents from diverse applications (e.g., text, audio, video and/or multimedia data) are automatically associated with chronological indicators for any new document if the user instructs the system to carry out this step automatically. Mander at 28:5-12 (“It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function automatically.”); Mander at 4:9-11; 36:54-55; 36:46-48. Mander also discloses that this timestamp information is indexed and can be used to sort and list documents by date, as well as to generate a pile of documents “dated after a certain date.” *See, e.g.*, Mander at 33:34-63; 22:42-46; 23:48-50.

In addition, Mander teaches that the system automatically creates document representations of the respective documents that form a pile and glance views that are abbreviated versions of certain documents in a pile. Specifically, “According to the

preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.” Mander at 7:1-6. For example, Figure 4a of Mander discloses a “pile” (151) of document representations (153) stacked on top of a base (152). Mander at 9:49-54. Figure 4a further discloses a “view cone 162 [that] points to or is connected on one side (the apex or smaller side) to the collection of documents” and “the other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing”:

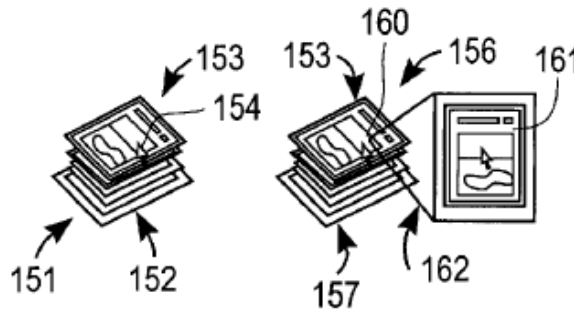


FIG. 4a

Mander at FIG. 4a.

Mander goes on to teach that a proxy can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

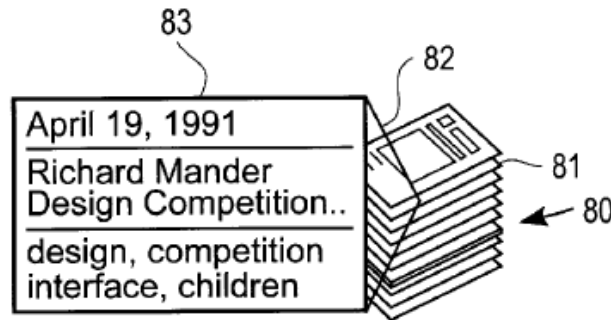


FIG. 4f

Mander at FIG. 4f. For example, in one embodiment, Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

Finally, as discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “automatically archiving the received documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes archival and back-up systems. Applying the broadest reasonable construction of the “automatically archiving the received documents” limitation, this limitation was well known in the art at the time of Patent Owner’s alleged invention, including in Retrospect. Retrospect discloses archiving software for archiving documents associated with a timestamp older than a specified time. Retrospect at pp. 151, 155. Because the archiving function is almost identical to a backup script, the archived file retains all the attributes of the original files. Retrospect at pp. 81-87, 98, 104. Further Retrospect also teaches retaining an alternative version of the documents by creating a catalog which indexes the archived files. Retrospect at pp. 21, 143.

a display facility displaying at least selected document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part each document representation except the first one in the displayed stack is visible to a user;

Mander discloses the use of a display for displaying document representations to a user. Mander at 5:58-62 (“The display controller 18 is coupled to the system bus 15 and receives commands and data from the processing means 10 and from the memory means 11 via the system bus 15. The display controller 18 controls the display device 19 in order to provide images on a display screen 22.”); Mander at 7:1-6. (“According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.”).

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “a receding, foreshortened stack of partly overlapping documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes a three-dimensional representation of partly-

overlapping icons of the same size. Applying the broadest reasonable construction of the “receding, foreshortened stack of partly overlapping documents” limitation, this limitation is disclosed in Mander. Specifically, Mander discloses displaying documents in a three-dimensional stack of partly overlapping icons of the same size wherein only part of most document representations below the top document in the stack is visible:

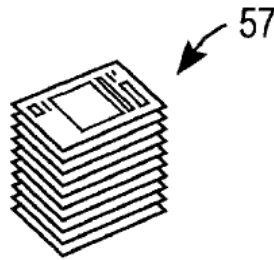


FIG. 2d

Mander at FIG. 2a-d.

said display facility further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over said displayed stack of document representations to display the glance view of the document whose document representation is currently touched by the cursor; and

Mander discloses that when a cursor or pointer displayed on the display is positioned over a pile for a predetermined period of time the system displays a view cone with a proxy of the document that was touched by the cursor or pointer. Specifically, Mander discloses “In the preferred embodiment of the present invention, the user positions the cursor 154 over the graphical representation of the pile and allows the cursor to remain positioned over the pile for a predetermined period of time. After that predetermined period of time, the computer system displays a view cone 162 with a proxy 161 in order to allow the user to browse through the documents in the collection of documents comprising the pile. As shown in FIG. 4a, the view cone 162 points to or is connected on one side (the apex or smaller side) to the collection of documents, and the apex is positioned to correspond to the document which has been selected for viewing in the browsing environment. The other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing.” Mander at 9:54-10:1; *see also* Mander at 10:11-20 (“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.”). Figure 16 shows a method for performing the operation of browsing a pile where a view cone is shown and a proxy of the selected document in the pile is displayed if the cursor remains pointed to a document for a predetermined period of time:

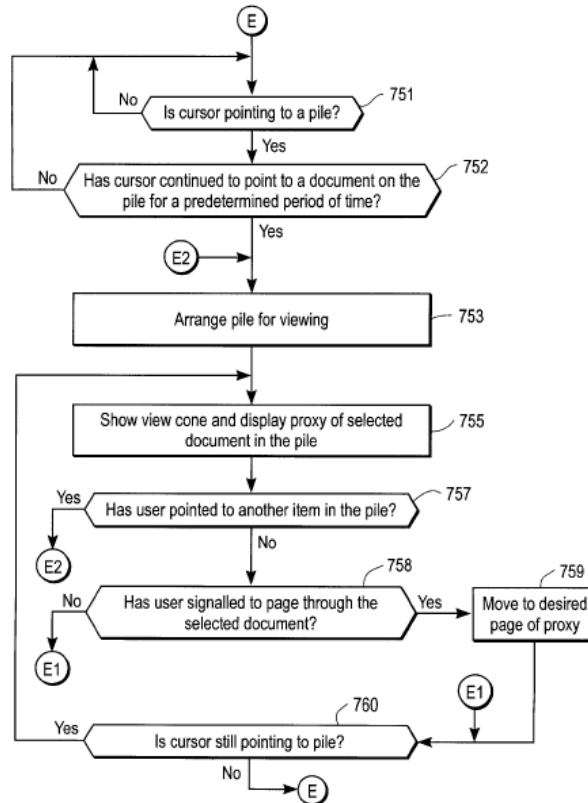


FIG. 16

Mander at FIG. 16; 26:66-27:40.

said stream-based operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “operating system utilizing subsystems from [said] another operating system” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes the use of a computer system with multiple software layers, including layers for core services and for user experience.

Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems.

Specifically, Mander discloses that the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18; 8:13-28; 15:34-60. For example, Mander discloses that programs from the operating system may be used along with the disclosed filing system for providing operations such as controlling input from a mouse and output to a display. Mander at 24:8-18; 8:13-28; 15:34-60. Additionally the operating system utilizes programs to receive documents over a network system, such as emails and therefore handling input/output. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

3. CLAIM 2

2. A stream-based operating systems as in claim 1 in which said selected indicators are time-based.

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility automatically associating respective selected indicators with the received documents" would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of "associating respective selected indicators with the received documents" includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, Mander discloses a document organizing facility associating time-based indicators with the documents received by the system. Specifically, Mander discloses that the file system may select a timestamp for the document or the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that documents from diverse applications are automatically associated with time-based indicators for any new document if the user instructs the system to carry out this step

automatically. Mander at 28:5-12 (“It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function automatically.”). Mander also discloses that this timestamp information is indexed and can be used to sort and list documents by date, as well as to generate a pile of documents “dated after a certain date.” *See, e.g.*, Mander at 33:34-63; 22:42-46; 23:48-50.

4. CLAIM 5

5. A stream-based operating system as in claim 1 in which said display of said glance view comprises an abbreviated version of the respective document.

Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

5. CLAIM 7

7. A stream-based operating system as in claim 1 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Mander teaches that a proxy (glance view) can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

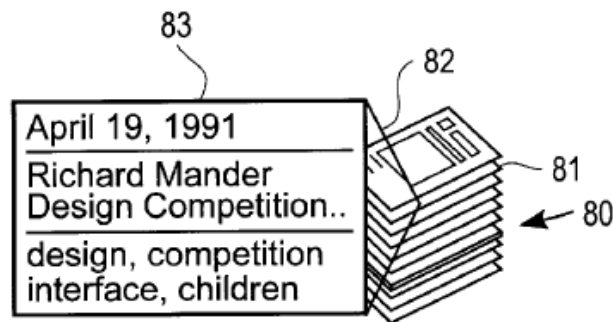


FIG. 4f

Mander at FIG. 4f.

6. CLAIM 8

8. A controlling operating system utilizing subsystems from another operating system running a computer, comprising:

As discussed above Section V.B (Claim Construction), the Patent Owner's own application of "operating system utilizing subsystems from [said] another operating system" in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes the use of a computer system with multiple software layers, including layers for core services and for user experience. Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems. Specifically, Mander discloses that the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

a document organizing facility receiving documents from diverse applications in diverse formats specific to the respective applications;

Mander discloses a system that receives documents created by diverse applications such as email, spreadsheets, digitized movies and text documents in formats specific to the respective applications. Mander at 8:14-28; 24:25-28; 22:24-27; 13:58-60; 36:30-32.

said document organizing facility automatically associating selected indicators with the received documents, automatically archiving the documents and indicators in consistent format for selective retrieval, and automatically creating information specifying respective glance views of said documents and respective document representations of said documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility automatically associating selected indicators with the received documents" would encompass either a

collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of “associating selected indicators with the received documents” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, Mander discloses a document organizing facility automatically associating selected indicators with the received documents. Specifically, Mander discloses that the file system may select a timestamp for the document or the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that documents from diverse applications (e.g., text, audio, video and/or multimedia data) are automatically associated with chronological indicators for any new document if the user instructs the system to carry out this step automatically. Mander at 28:5-12 (“It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function automatically.”); Mander at 4:9-11; 36:54-55; 36:46-48. Mander also discloses that this timestamp information is indexed and can be used to sort and list documents by date, as well as to generate a pile of documents “dated after a certain date.” *See, e.g.*, Mander at 33:34-63; 22:42-46; 23:48-50.

In addition, Mander teaches that the system automatically creates document representations of the respective documents that form a pile and glance views that are abbreviated versions of certain documents in a pile. Specifically, “According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.” Mander at 7:1-6. For example, Figure 4a of Mander discloses a “pile” (151) of document representations (153) stacked on top of a base (152). Mander at 9:49-54. Figure 4a further discloses a “view cone 162 [that] points to or is connected on one side (the apex or smaller side) to the collection of documents” and “the other side of the viewing cone 162 shows a proxy 161 which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing”:

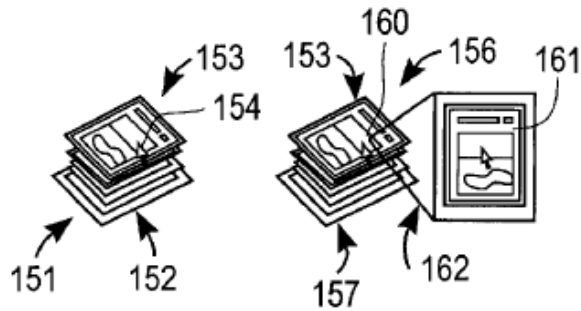


FIG. 4a

Mander at FIG. 4a.

Mander goes on to teach that a proxy can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

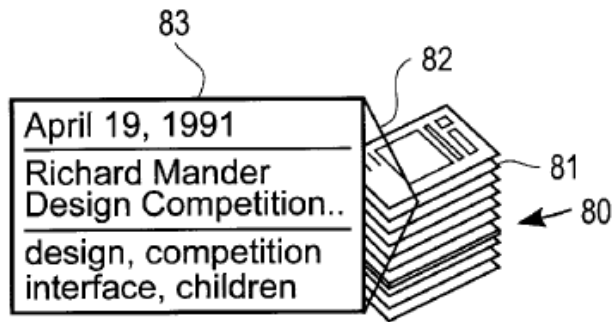


FIG. 4f

Mander at FIG. 4f. For example, in one embodiment, Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

Finally, as discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “automatically archiving the received documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes archival and back-up systems. Applying the broadest reasonable construction of the “automatically archiving the received documents” limitation, this limitation was well known in the art at the time of Patent Owner’s alleged invention, including in Retrospect. Retrospect discloses archiving software for archiving documents associated with a timestamp older than a specified time. Retrospect at pp. 151, 155.

Because the archiving function is almost identical to a backup script, the archived file retains all the attributes of the original files. Retrospect at pp. 81-87, 98, 104. Further, Retrospect also teaches retaining an alternative version of the documents by creating a catalog which indexes the archived files. Retrospect at pp. 21, 143.

a display facility displaying at least selected document representations;

Mander discloses the use of a display for displaying document representations to a user. Mander at 5:58-62 (“The display controller 18 is coupled to the system bus 15 and receives commands and data from the processing means 10 and from the memory means 11 via the system bus 15. The display controller 18 controls the display device 19 in order to provide images on a display screen 22.”); Mander at 7:1-6. (“According to the preferred embodiment, each document in the pile represented by the graphical representation 50 may be a miniature of the first page of the actual document or an icon of the document type, a set of keywords related to the document or a set of attributes relating to the document.”).

said display facility further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over said displayed stack of document representations to display the glance view of the document whose document representation is currently touched by the cursor; and

Mander discloses that when a cursor or pointer displayed on the display is positioned over a pile for a predetermined period of time the system displays a view cone with a proxy of the document that was touched by the cursor or pointer. Specifically, Mander discloses “In the preferred embodiment of the present invention, the user positions the cursor 154 over the graphical representation of the pile and allows the cursor to remain positioned over the pile for a predetermined period of time. After that predetermined period of time, the computer system displays a view cone 162 with a proxy 161 in order to allow the user to browse through the documents in the collection of documents comprising the pile. As shown in FIG. 4a, the view cone 162 points to or is connected on one side (the apex or smaller side) to the collection of documents, and the apex is positioned to correspond to the document which has been selected for viewing in the browsing environment. The other side of the viewing cone 162 shows a proxy 161

which is, in one embodiment, a miniature of the first page of the document which has been selected for browsing.” Mander at 9:54-10:1; *see also* Mander at 10:11-20 (“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.”). Figure 16 shows a method for performing the operation of browsing a pile where a view cone is shown and a proxy of the selected document in the pile is displayed if the cursor remains pointed to a document for a predetermined period of time:

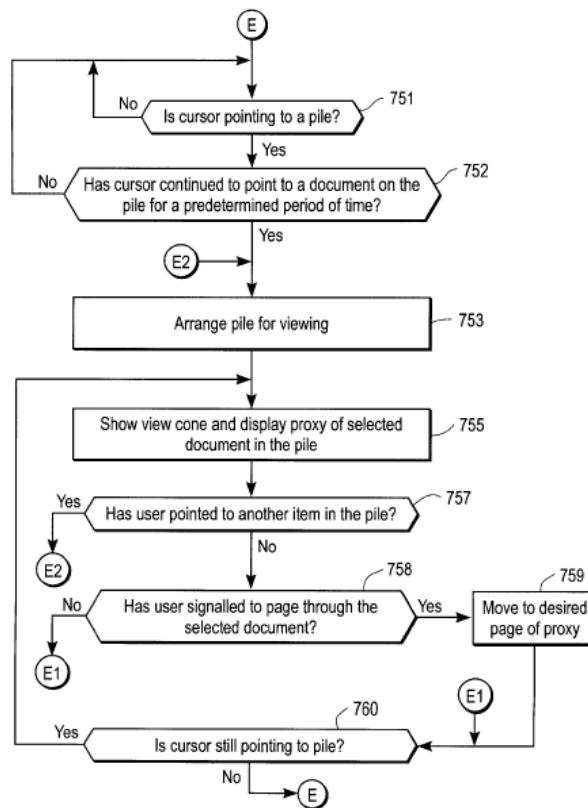


FIG. 16

Mander at FIG. 16; 26:66-27:40.

said controlling operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “operating system utilizing subsystems from [said] another operating system” in litigation demonstrates that Patent Owner believes that the broadest

reasonable construction of this limitation includes the use of a computer system with multiple software layers, including layers for core services and for user experience. Applying this broadest reasonable construction, Mander discloses an operating system that utilizes programs from other operating systems.

Specifically, Mander discloses that the invention can be used in conjunction with the Apple Operating System, including for example its file system. Mander at 24:8-18; 8:13-28; 15:34-60. For example, Mander discloses that programs from the operating system may be used along with the disclosed filing system for providing operations such as controlling input from a mouse and output to a display. Mander at 24:8-18; 8:13-28; 15:34-60. Additionally the operating system utilizes programs to receive documents over a network system, such as emails and therefore handling input/output. Mander at 24:8-18; 8:13-28; 15:34-60. Mander also contemplates that its document organizing operating system can utilize the Apple Operating System's Finder program to perform certain user experience functions, such as "standard window operations [that] are well known and are available in graphical user interfaces with windows, such as the Macintosh Finder from Apple Computer, Inc. of Cupertino, Calif." Mander at 15:34-60.

7. CLAIM 9

9. An operating systems as in claim 8 in which said selected indicators are time-based.

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility automatically associating respective selected indicators with the received documents" would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of "associating respective selected indicators with the received documents" includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, Mander discloses a document organizing facility associating time-based indicators with the documents received by the system. Specifically, Mander discloses that the file system may select a timestamp for the document or the timestamp may be selected by a user and recorded in a date line field of the document. Mander at 33:34-43. Mander further discloses that

documents from diverse applications are automatically associated with time-based indicators for any new document if the user instructs the system to carry out this step automatically. Mander at 28:5-12 (“It should be noted that step 803 could be performed automatically by the system for any new or modified document if the user so instructs the computer system to perform this function automatically.”). Mander also discloses that this timestamp information is indexed and can be used to sort and list documents by date, as well as to generate a pile of documents “dated after a certain date.” *See, e.g.*, Mander at 33:34-63; 22:42-46; 23:48-50.

8. CLAIM 10

10. An operating system as in claim 8 in which said display facility displays said document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part each but the first document representation in the displayed stack is visible to a user.

As discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “a receding, foreshortened stack of partly overlapping documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes a three-dimensional representation of partly-overlapping icons of the same size. Applying the broadest reasonable construction of the “receding, foreshortened stack of partly overlapping documents” limitation, this limitation is disclosed in Mander. Specifically, Mander discloses displaying documents in a three-dimensional stack of partly overlapping icons of the same size wherein only part of most document representations below the top document in the stack is visible:

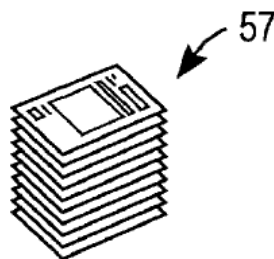


FIG. 2d

Mander at FIG. 2a-d.

9. CLAIM 13

13. A stream-based operating system as in claim 8 in which said display of said glance view comprises an abbreviated version of the respective document.

Mander teaches glance views called proxies, which are “miniature[s] of the first page of the document that has been selected for browsing.” Mander at 9:54-10:1; 12:10-11.

10. CLAIM 15

15. A stream-based operating system as in claim 8 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Mander teaches that a proxy (glance view) can be generated by using the most characteristic words in the document and information from certain fields such as “To,” “Re,” and “Date.” Mander at 10:17-23; 10:33-35. For example, Figure 4f of Mander discloses a proxy that “conveys more information to the user in the case of a mail document than a miniature of the document which the user probably has not seen”:

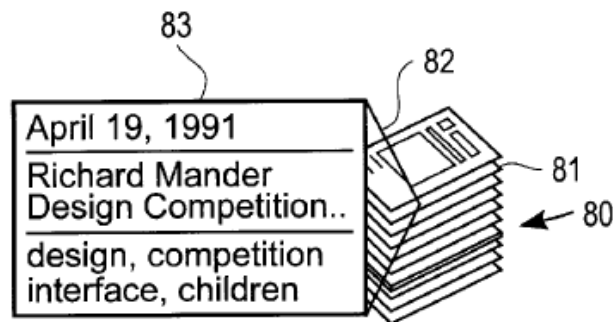


FIG. 4f

Mander at FIG. 4f.

C. CLAIMS 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 AND 39 ARE RENDERED OBVIOUS BY LUCAS IN VIEW OF MAGELLAN UNDER 35 U.S.C. § 103⁸

Lucas (U.S. 5,499,330) was filed September 17, 1993. Therefore, Lucas is prior art under 35 U.S.C. §102 and is asserted under 35 U.S.C. § 103. Lucas was not before the Examiner during the prosecution of the '427 patent.

Lucas discloses a system for displaying documents in three dimensions, particularly three-dimensional piles, to provide an “intuitively appealing” improvement over conventional user-interfaces where “folders or directories are used to organize files or documents into groups or hierarchies.” Lucas 1:14-40 at Figs. 5 & 3. Specifically, Lucas discloses a system that displays documents along a two-dimensional “strand” through a three-dimensional display space. Lucas at 1:55-61. The strand path is defined by a strand function that determines the shape of the three-dimensional display of documents. Lucas at 8:54-9:7. The strand mechanism can form any kind of continuous three-dimensional display of documents, including piles or documents “spiraling back to infinity.” Lucas at 8:46-9:7; Figs. 5 & 3.

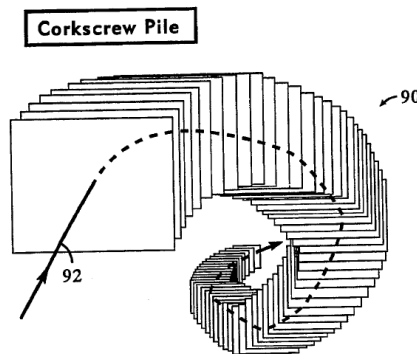


FIG. 5

Lucas also discloses a “pile and scroll tool” that allows a user to browse through a collection of documents displayed along a strand. Lucas at 10:43-51; Fig. 3. The pile and scroll tool allows the user to browse documents that are cycling through a U-shaped strand in response to input signals from a user-controlled mouse. Lucas at 10:61-11:17.

⁸ Although Requester has detailed the bases for invalidity of the identified claims of the '427 patent herein, Requester has also included additional citations to the disclosure in Lucas and Magellan in Exhibit CC-B to assist the Office.

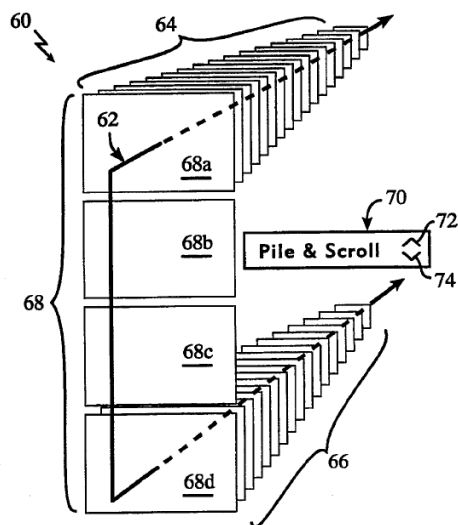


FIG. 3

Lucas describes using these piles as a generic tool able to present any type of collection of documents, including for example the output of a “FIND” command. E.g. Lucas at 9:7-14. The user interface described in Lucas is designed to work with “repositories” and “workspaces” of documents, which can be kept either in local storage or accessed over a computer network. Lucas at 7:40-67.

For purposes of this Request, Lucas is analyzed in view of Lotus’s Magellan software. Lotus’s Magellan was a software system first released in the 1980s by Lotus Development Corporation. Magellan was disclosed in, among others, “Using Lotus Magellan,” by David P. Gobel (Que Corporation, 1989) and “Lotus Magellan’s Explorer’s Guide,” by Lotus (Lotus Development Corporation, 1989). Therefore, Magellan is prior art under 35 U.S.C. §102 and is asserted under 35 U.S.C. § 103. Lotus’ Magellan was also not before the Examiner during the prosecution of the ‘427 patent.

Magellan discloses a system for indexing the entire contents of a computer system, including every word of every document in the system, and even allows indexing of networked storage. Using Lotus Magellan at 1-2. After indexing all of the files on a user’s system, Magellan allows searching the index to find documents satisfying user-defined search criteria. Using Lotus Magellan at *xi-xiii*; Magellan Explorer’s Guide at 19. In addition to indexing the contents of the files, Magellan also indexes file metadata such as name, path, time, size, and date. Magellan Explorer’s Guide at 186. While Magellan had sophisticated indexing and searching capabilities, it did not have a graphical user interface.

1. A PERSON OF ORDINARY SKILL IN THE ART WOULD BE MOTIVATED TO COMBINE LUCAS AND MAGELLAN

One of ordinary skill would be motivated to combine the display features of Lucas with the search and indexing features of Lotus' Magellan.

(i) SUBSTITUTION OF ONE KNOWN ELEMENT FOR ANOTHER

One of ordinary skill in the art would be motivated to combine Lucas with Magellan as a substitution of one known element for another to obtain a predictable result. MPEP § 2141.III states that “[e]xemplary rationales that may support a conclusion of obviousness include ... (B) Simple substitution of one known element for another to obtain predictable results.” The user interface of Lucas is a compatible alternative to the user interface used by Magellan, including in particular because there are predictable positive results associated with substituting the Lucas user interface for a DOS-based user interface. Those predictable positive results include, among others, the positive results disclosed in Lucas, such as allowing users to “more easily manipulate documents in an environment like the real world of the desktop and to organize documents in a way that is intuitively appealing” and is “not based on artificial constructs imposed by the nature of computer storage of documents or two dimensional user interface designs.” Lucas at 1:14-40. Accordingly, one skilled in the art would be motivated to substitute the known three-dimensional user interface of Lucas for the known DOS-based user interface of Magellan to obtain the predictable result of an enhanced user interface. This is particularly true because Lucas expressly contemplates the use of searches (which it describes using, for example, the FIND operation) to generate the content to be displayed. Lucas at 9:8-14.

(ii) APPLYING A KNOWN TECHNIQUE TO A KNOWN DEVICE READY FOR IMPROVEMENT

MPEP § 2141.III states that “[e]xemplary rationales that may support a conclusion of obviousness include ... (D) Applying a known technique to a known device (method or product) ready for improvement to yield predictable results.” For the same reasons as above, one of ordinary skill in the art would be motivated to use the known technique of Lucas's user interface with search and archival features of Magellan. This is particularly true because Magellan does not disclose a three-dimensional user

interface that allows users to “more easily manipulate documents in an environment like the real world of the desktop and to organize documents in a way that is intuitively appealing,” as disclosed in Lucas, and would thus be ready for improvement.

(iii)TEACHING, SUGGESTION OR MOTIVATION IN THE PRIOR ART

Finally, one of ordinary skill in the art would be motivated by the direct teaching of Lucas to combine it with Magellan. Lucas expressly contemplates the use of searches (which it describes using, for example, the FIND operation) to generate the content to be displayed. Lucas at 9:8-14. Magellan 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. Using Lotus Magellan at 1-2; Using Lotus Magellan at *xi-xii*; Magellan Explorer’s Guide at 19. One of ordinary skill in the art reading the disclosure of high-level search functionality in Lucas would be motivated by that teaching to identify known techniques for sophisticated searching and to combine those techniques with Lucas.

In sum, based on the capabilities of the two systems and the well-known nature of both user interface and searching systems at the time the ‘427 patent was filed, a person of ordinary skill in the art would have considered it obvious to implement the Lucas display technique with the searching system disclosed in Magellan.

2. CLAIM 1

1. A stream-based operating system utilizing subsystems from another operating system running a computer, comprising:

Magellan discloses utilizing a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS. Magellan Explorer’s Guide at back cover (“Systems Requirements: DOS versions 2.1 and higher”).

a document organizing facility receiving documents created by diverse applications in diverse formats specific to the respective applications;

Magellan discloses receiving documents from other computer systems, such as files received via removable disks or from other networked computers. Magellan Explorer’s Guide at pg. 4 and 191. Lucas also contemplates that data units may be

received from other computer systems or “repositories,” including computers that are networked. Lucas at 7:58-8:2, 8:24-29, 18:30-42.

Magellan also discloses that the indexed documents may contain at least textual data. Magellan Explorer’s Guide at pg. 186. Lucas contemplates that its technique can be used broadly for handling documents in a computer system, including documents that are typed, scanned, faxed or emailed. Lucas at 1:49-52, 14:28-35.

said document organizing facility automatically associating respective selected indicators with the received documents, automatically archiving the documents and indicators in consistent format for selective retrieval, and automatically creating information specifying respective glance views of said documents and respective document representations of said documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of “document organizing facility automatically associating respective selected indicators with the received documents” would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of “associating selected indicators with the received documents” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, the combination of Lucas and Magellan discloses associating selected indicators with the documents received by the system. Specifically, Magellan discloses an index which identifies the time and date that each document was created or last modified. Magellan Explorer’s Guide at pp. 29, 186, Using Lotus Magellan at pg. 36. In addition, Lucas contemplates that the files that it displays will include timestamp information. For example, Lucas discloses that “whenever a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read” and “may staple an information sticker to the new document.” Lucas at 19:42-67. In the case of scanned documents, Lucas contemplates that the scanned document will have an information sticker that includes the date on which the document was scanned. Lucas at 4:43-48. As another example, Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at

14:28-35.

In addition, Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191. Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

Finally, as discussed above Section V.B (Claim Construction), the Patent Owner's own application of "automatically archiving the received documents" in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes archival and back-up systems. Applying the broadest reasonable construction of the "automatically archiving the received documents" limitation, this limitation was well known in the art at the time of Patent Owner's alleged invention, including in Magellan. Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191. Magellan also describes archiving, as it "provides the file management tools you need to archive your data and remove any unnecessary files after finishing a project." Magellan Explorer's Guide at pg. 52, 57; Using Lotus Magellan at pp. 88-91.

a display facility displaying at least selected document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part each document representation except the first one in the displayed stack is visible to a user;

Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191.

Lucas discloses the display of files as a receding foreshortened stack of partly overlapping documents where only a part of each of said documents in the displayed stack, after the first document in the stack, is visible to the user:

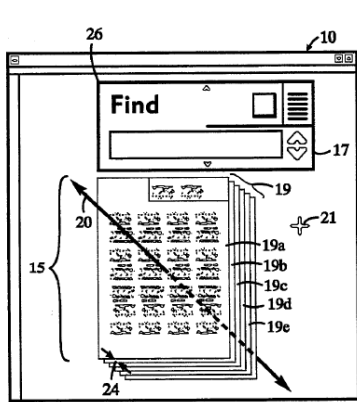


FIG. 1

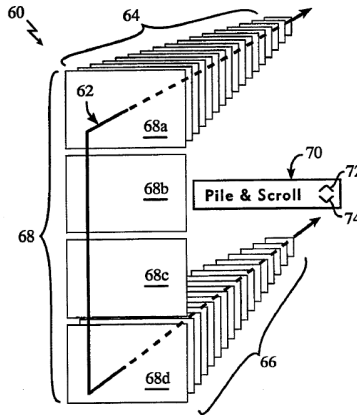


FIG. 3

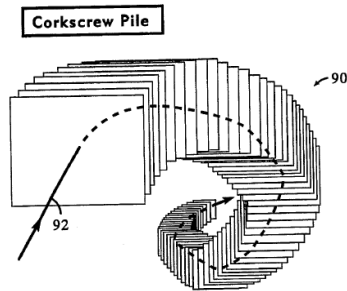


FIG. 5

Lucas at FIGS. 1, 3, 5. Lucas further discloses that “in a preferred embodiment of a workspace, the workspace is wrapped at the edges giving a fish-eye lens effect, so that every screen object that is not invisible has at least some portion of its rectangle within the screen display no matter what its position in the three dimensional workspace.” Lucas at 5:14-22.

said display facility further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over said displayed stack of document representations to display the glance view of the document whose document representation is currently touched by the cursor; and

Lucas further discloses displaying a cursor or pointer and responding to a user sliding the cursor or pointer over said displayed stack to display the glance view of the document in the stack that is currently touched by the cursor or pointer, without requiring clicking on the document. Specifically, Lucas discloses that

a track ball device may be used to manipulate the position of the mouse cursor. As the mouse cursor is moved toward the bottom of the screen, the screen object is dragged forward (towards the user) within the workspace. As the mouse cursor is moved toward the upper left corner of the screen instead of forward, the screen object is pushed back within the workspace. Note that as the screen object on the display device is being moved, the virtual location of the corresponding document maintained in the world space of the workspace viewer is being changed accordingly. Thus one can either say that the screen object is being moved, or that the document is being moved, and have the same meaning.

Lucas at 6:63-7:12.

Lucas goes on to disclose that

as a document is pulled forward, the document is moved towards the user along the z axis of the three dimensional workspace. The perspective process translates this movement of the object towards the user into a screen representation of the screen object for the document. As a result, the screen object for the document grows in size in its two dimensional screen space representation. Conversely, when a document is pushed back, the screen object for the document is made smaller.

Lucas at 7:13-21. In addition, Lucas discloses that, as the object moves toward the user screen and grows larger, a glance view of the document becomes visible to the user. Specifically, Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Indeed, when a document is pulled towards the user by sliding a cursor or track ball without clicking on the document such that it “plastered against the workplace window and cannot be moved any closer” to the user, that alternative version of the file or glance view comes to the front of the workspace window. Lucas at 7:13-27.

said stream-based operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

Magellan discloses a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS, for operations including writing documents to storage media, interrupt handling and input/output. Magellan Explorer’s Guide at back cover (“Plus, Magellan offers a full complement of DOS utilities that allows you to copy, move, delete, back up and otherwise organize files as you choose.”).

3. CLAIM 2

2. A stream-based operating systems as in claim 1 in which said selected indicators are time-based.

As described in more detail in Section V.B above (Claim Construction), the

broadest reasonable construction of “document organizing facility automatically associating respective selected indicators with the received documents” would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of “associating respective selected indicators with the received documents” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, Applying the broadest reasonable constructions of these terms, the combination of Lucas and Magellan discloses associating selected indicators with the documents received by the system, where the selected indicators are time-based. Specifically, Magellan discloses an index which identifies the time and date that each document was created or last modified. Magellan Explorer’s Guide at pp. 29, 186, Using Lotus Magellan at pg. 36. In addition, Lucas contemplates that the files that it displays will include timestamp information. For example, Lucas discloses that “whenever a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read” and “may staple an information sticker to the new document.” Lucas at 19:42-67. In the case of scanned documents, Lucas contemplates that the scanned document will have an information sticker that includes the date on which the document was scanned. Lucas at 4:43-48. As another example, Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at 14:28-35.

4. CLAIM 5

5. A stream-based operating system as in claim 1 in which said display of said glance view comprises an abbreviated version of the respective document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a

view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

5. CLAIM 7

7. A stream-based operating system as in claim 1 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. “The system supports multiple renderers, and which renderer is used for a particular document is determined by an attribute of that document.” Lucas at 5:46-48.

In addition, Lucas discloses that “[w]henver a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read. The system may staple an information sticker to the new document, thereby creating a fixed visual relationship between the information sticker and the new document. After the information sticker is stapled to the document, the information sticker will be displayed in the position at which it was stapled relative to the new document whenever the new document is displayed. The fields of the information sticker and their contents depend on where the document came from. The user can add or delete fields within the information sticker and edit them as needed. The user will typically add information to help find the document later. The user may alternatively fill in the fields by dragging the document over a tool which has been set up to automatically fill in certain fields of the information sticker. Once the desired fields are added and filled in, there is no need to “file” the document in the traditional sense. The user can remove it from the workspace, put it in a pile, or retrieve it later using the values typed in the information sticker fields. As an alternative to stapling information stickers to new documents, the system may use another means of annotation, such as making the new document a specific color, or writing text to an attribute or editable field of the new document.” Lucas at 19:42-67.

Likewise, Magellan “will automatically select one of its viewers to display the current file depending on the file's format,” however if the user selects a preferred viewer, Magellan will use this viewer whenever possible. Magellan Explorer's Guide at pg. 145.

6. CLAIM 8

8. A controlling operating system utilizing subsystems from another operating system running a computer, comprising:

Magellan discloses utilizing a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS. Magellan Explorer's Guide at back cover (“Systems Requirements: DOS versions 2.1 and higher”).

a document organizing facility receiving documents from diverse applications in diverse formats specific to the respective applications;

Magellan discloses receiving documents from other computer systems, such as files received via removable disks or from other networked computers. Magellan Explorer's Guide at pg. 4 and 191. Lucas also contemplates that data units may be received from other computer systems or “repositories,” including computers that are networked. Lucas at 7:58-8:2, 8:24-29, 18:30-42.

Magellan also discloses that the indexed documents may contain at least textual data. Magellan Explorer's Guide at pg. 186. Lucas contemplates that its technique can be used broadly for handling documents in a computer system, including documents that are typed, scanned, faxed or emailed. Lucas at 1:49-52, 14:28-35.

said document organizing facility automatically associating selected indicators with the received documents, automatically archiving the documents and indicators in consistent format for selective retrieval, and automatically creating information specifying respective glance views of said documents and respective document representations of said documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of “document organizing facility automatically associating selected indicators with the received documents” would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of “associating selected indicators

with the received documents” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, the combination of Lucas and Magellan discloses associating selected indicators with the documents received by the system. Specifically, Magellan discloses an index which identifies the time and date that each document was created or last modified. Magellan Explorer’s Guide at pp. 29, 186, Using Lotus Magellan at pg. 36. In addition, Lucas contemplates that the files that it displays will include timestamp information. For example, Lucas discloses that “whenever a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read” and “may staple an information sticker to the new document.” Lucas at 19:42-67. In the case of scanned documents, Lucas contemplates that the scanned document will have an information sticker that includes the date on which the document was scanned. Lucas at 4:43-48. As another example, Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at 14:28-35.

In addition, Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer’s Guide at pg. 4, 63, and 191. Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

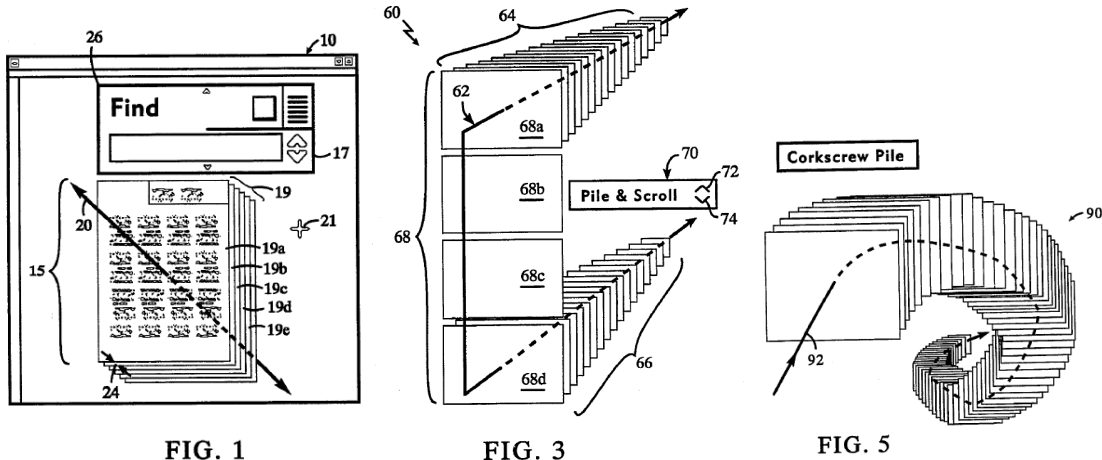
Finally, as discussed above Section V.B (Claim Construction), the Patent Owner’s own application of “automatically archiving the documents” in litigation demonstrates that Patent Owner believes that the broadest reasonable construction of this limitation includes archival and back-up systems. Applying the broadest reasonable construction of the “automatically archiving the documents” limitation, this limitation was well known in

the art at the time of Patent Owner's alleged invention, including in Magellan. Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191. Magellan also describes archiving, as it "provides the file management tools you need to archive your data and remove any unnecessary files after finishing a project." Magellan Explorer's Guide at pg. 52, 57; Using Lotus Magellan at pp. 88-91.

a display facility displaying at least selected document representations;

Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191.

Lucas discloses the display of files such that they are visible to the user:



Lucas at FIGS. 1, 3, 5.

said display facility further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over said displayed stack of document representations to display the glance view of the document whose document representation is currently touched by the cursor; and

Lucas further discloses displaying a cursor or pointer and responding to a user sliding the cursor or pointer over said displayed stack to display the glance view of the

document in the stack that is currently touched by the cursor or pointer, without requiring clicking on the document. Specifically, Lucas discloses that

a track ball device may be used to manipulate the position of the mouse cursor. As the mouse cursor is moved toward the bottom of the screen, the screen object is dragged forward (towards the user) within the workspace. As the mouse cursor is moved toward the upper left corner of the screen instead of forward, the screen object is pushed back within the workspace. Note that as the screen object on the display device is being moved, the virtual location of the corresponding document maintained in the world space of the workspace viewer is being changed accordingly. Thus one can either say that the screen object is being moved, or that the document is being moved, and have the same meaning.

Lucas at 6:63-7:12.

Lucas goes on to disclose that

as a document is pulled forward, the document is moved towards the user along the z axis of the three dimensional workspace. The perspective process translates this movement of the object towards the user into a screen representation of the screen object for the document. As a result, the screen object for the document grows in size in its two dimensional screen space representation. Conversely, when a document is pushed back, the screen object for the document is made smaller.

Lucas at 7:13-21. In addition, Lucas discloses that, as the object moves toward the user screen and grows larger, a glance view of the document becomes visible to the user. Specifically, Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Indeed, when a document is pulled towards the user by sliding a cursor or track ball without clicking on the document such that it “plastered against the workplace window and cannot be moved any closer” to the user, that alternative version of the file or glance view comes to the front of the workspace window. Lucas at 7:13-27.

said controlling operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

Magellan discloses a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS, for operations

including writing documents to storage media, interrupt handling and input/output. Magellan Explorer's Guide at back cover ("Plus, Magellan offers a full complement of DOS utilities that allows you to copy, move, delete, back up and otherwise organize files as you choose.").

7. CLAIM 9

9. An operating systems as in claim 8 in which said selected indicators are time-based.

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility automatically associating selected indicators with the received documents" would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of "associating selected indicators with the received documents" includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, the combination of Lucas and Magellan discloses associating selected indicators with the documents received by the system, where the selected indicators are time-based. Specifically, Magellan discloses an index which identifies the time and date that each document was created or last modified. Magellan Explorer's Guide at pp. 29, 186, Using Lotus Magellan at pg. 36. In addition, Lucas contemplates that the files that it displays will include timestamp information. For example, Lucas discloses that "whenever a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read" and "may staple an information sticker to the new document." Lucas at 19:42-67. In the case of scanned documents, Lucas contemplates that the scanned document will have an information sticker that includes the date on which the document was scanned. Lucas at 4:43-48. As another example, Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at 14:28-35.

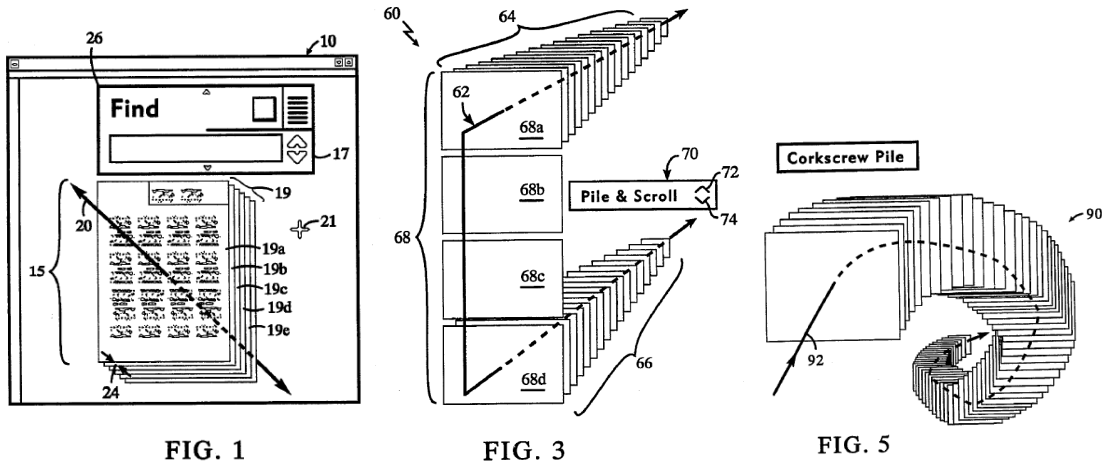
8. CLAIM 10

10. An operating system as in claim 8 in which said display facility displays said document representations as a receding, foreshortened

stack of partly overlapping document representations such that only a part each but the first document representation in the displayed stack is visible to a user.

Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191.

Lucas discloses the display of files as a receding foreshortened stack of partly overlapping documents where only a part of each of said documents in the displayed stack, after the first document in the stack, is visible to the user:



Lucas at FIGS. 1, 3, 5. Lucas further discloses that “in a preferred embodiment of a workspace, the workspace is wrapped at the edges giving a fish-eye lens effect, so that every screen object that is not invisible has at least some portion of its rectangle within the screen display no matter what its position in the three dimensional workspace.” Lucas at 5:14-22.

9. CLAIM 13

13. A stream-based operating system as in claim 8 in which said display of said glance view comprises an abbreviated version of the respective document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a

view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

10. CLAIM 15

15. A stream-based operating system as in claim 8 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. “The system supports multiple renderers, and which renderer is used for a particular document is determined by an attribute of that document.” Lucas at 5:46-48.

In addition, Lucas discloses that “[w]henver a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read. The system may staple an information sticker to the new document, thereby creating a fixed visual relationship between the information sticker and the new document. After the information sticker is stapled to the document, the information sticker will be displayed in the position at which it was stapled relative to the new document whenever the new document is displayed. The fields of the information sticker and their contents depend on where the document came from. The user can add or delete fields within the information sticker and edit them as needed. The user will typically add information to help find the document later. The user may alternatively fill in the fields by dragging the document over a tool which has been set up to automatically fill in certain fields of the information sticker. Once the desired fields are added and filled in, there is no need to “file” the document in the traditional sense. The user can remove it from the workspace, put it in a pile, or retrieve it later using the values typed in the information sticker fields. As an alternative to stapling information stickers to new documents, the system may use another means of annotation, such as making the new document a specific color, or writing text to an attribute or editable field of the new document.” Lucas at 19:42-67.

Likewise, Magellan “will automatically select one of its viewers to display the current file depending on the file's format,” however if the user selects a preferred viewer, Magellan will use this viewer whenever possible. Magellan Explorer's Guide at pg. 145.

11. CLAIM 16

16. A controlling operating system utilizing subsystems from another operating system running a computer, comprising:

Magellan discloses utilizing a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS. Magellan Explorer's Guide at back cover (“Systems Requirements: DOS versions 2.1 and higher”).

a document organizing facility associating selected indicators with received or created documents and creating information specifying glance views of the respective documents and information specifying document representations of the respective documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of “document organizing facility associating selected indicators with received or created documents” would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of “associating selected indicators with received or created documents” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, the combination of Lucas and Magellan discloses associating selected indicators with the documents created or received by the system. Specifically, Magellan discloses an index which identifies the time and date that each document was created or last modified. Magellan Explorer's Guide at pp. 29, 186, Using Lotus Magellan at pg. 36. In addition, Lucas contemplates that the files that it displays will include timestamp information. For example, Lucas discloses that “whenever a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read” and “may staple an information sticker to the new document.” Lucas at 19:42-67. In the case of scanned documents, Lucas

contemplates that the scanned document will have an information sticker that includes the date on which the document was scanned. Lucas at 4:43-48. As another example, Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at 14:28-35.

In addition, Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191. Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

a display facility displaying at least selected ones of said document representations

Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191.

Lucas discloses the display of files such that they are visible to the user:

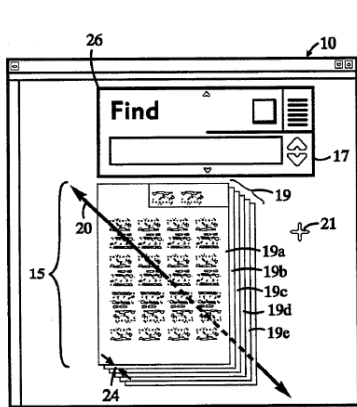


FIG. 1

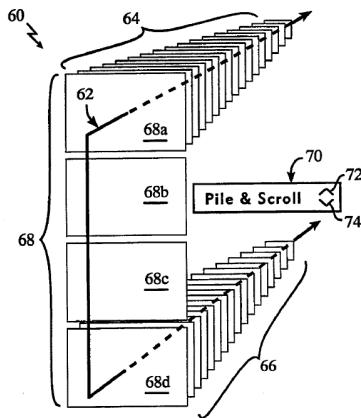


FIG. 3

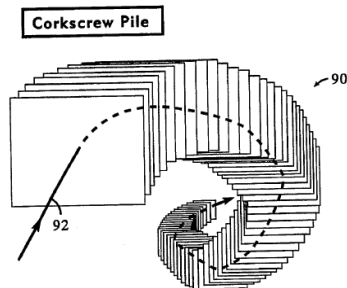


FIG. 5

Lucas at FIGS. 1, 3, 5.

said displaying further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over a portion of displayed document representation to display the glance view of the document whose document representation is touched by the cursor or pointer; and

Lucas further discloses displaying a cursor or pointer and responding to a user sliding the cursor or pointer over said displayed stack to display the glance view of the document in the stack that is currently touched by the cursor or pointer, without requiring clicking on the document. Specifically, Lucas discloses that

a track ball device may be used to manipulate the position of the mouse cursor. As the mouse cursor is moved toward the bottom of the screen, the screen object is dragged forward (towards the user) within the workspace. As the mouse cursor is moved toward the upper left corner of the screen instead of forward, the screen object is pushed back within the workspace. Note that as the screen object on the display device is being moved, the virtual location of the corresponding document maintained in the world space of the workspace viewer is being changed accordingly. Thus one can either say that the screen object is being moved, or that the document is being moved, and have the same meaning.

Lucas at 6:63-7:12.

Lucas goes on to disclose that

as a document is pulled forward, the document is moved towards the user along the z axis of the three dimensional workspace. The perspective process translates this movement of the object towards the user into a screen representation of the screen object for the document. As a result, the screen object for the document grows in size in its two dimensional screen space representation. Conversely, when a document is pushed back, the screen object for the document is made smaller.

Lucas at 7:13-21. In addition, Lucas discloses that, as the object moves toward the user screen and grows larger, a glance view of the document becomes visible to the user. Specifically, Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Indeed, when a document is pulled towards the user by sliding a cursor or track ball without clicking on the document such that it “plastered against the workplace window and cannot be moved any closer” to the user,

that alternative version of the file or glance view comes to the front of the workspace window. Lucas at 7:13-27.

said controlling operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

Magellan discloses a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS, for operations including writing documents to storage media, interrupt handling and input/output. Magellan Explorer's Guide at back cover ("Plus, Magellan offers a full complement of DOS utilities that allows you to copy, move, delete, back up and otherwise organize files as you choose.").

12. CLAIM 17

17. An operating system as in claim 16 in which said selected indicators are time-based.

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of "document organizing facility associating selected indicators with received or created documents" would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of "associating selected indicators with received or created documents" includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, the combination of Lucas and Magellan discloses associating selected indicators with the documents received by the system, where the selected indicators are time-based. Specifically, Magellan discloses an index which identifies the time and date that each document was created or last modified. Magellan Explorer's Guide at pp. 29, 186, Using Lotus Magellan at pg. 36. In addition, Lucas contemplates that the files that it displays will include timestamp information. For example, Lucas discloses that "whenever a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read" and "may staple an information sticker to the new document." Lucas at

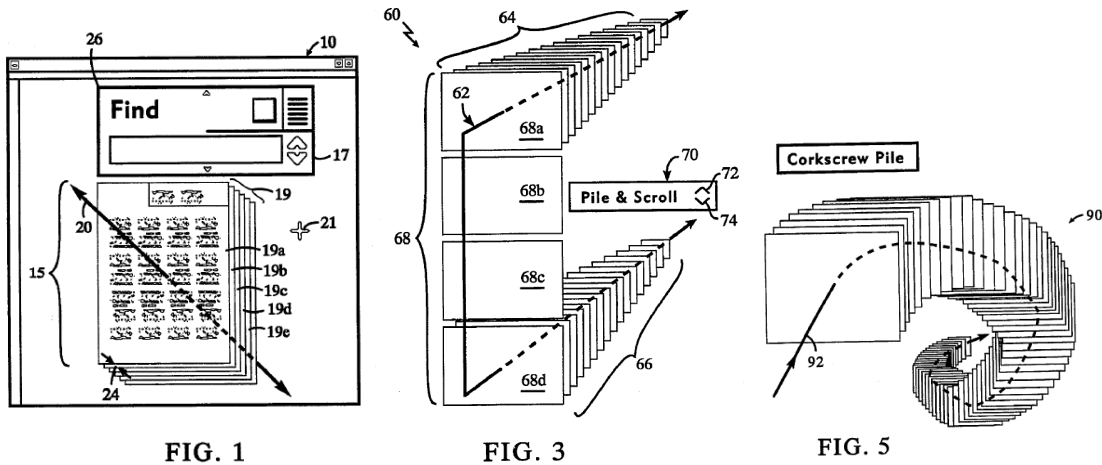
19:42-67. In the case of scanned documents, Lucas contemplates that the scanned document will have an information sticker that includes the date on which the document was scanned. Lucas at 4:43-48. As another example, Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at 14:28-35.

13. CLAIM 18

18. An operating system as in claim 16 in which said display facility displays said document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part of most document representations in the displayed stack is visible to the user.

Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer’s Guide at pg. 4, 63, and 191.

Lucas discloses the display of files as a receding foreshortened stack of partly overlapping documents where only a part of each of said documents in the displayed stack, after the first document in the stack, is visible to the user:



Lucas at FIGS. 1, 3, 5. Lucas further discloses that “in a preferred embodiment of a workspace, the workspace is wrapped at the edges giving a fish-eye lens effect, so that every screen object that is not invisible has at least some portion of its rectangle within the screen display no matter what its position in the three dimensional workspace.” Lucas at 5:14-22.

14. CLAIM 19

19. An operating system as in claim 16 in which said document organizing facility receives said document in formats specific to heterogeneous applications and creates said information specifying said glance views to enable display of the glance views in a consistent format.

Magellan also discloses that the indexed documents may contain at least textual data. Magellan Explorer's Guide at pg. 186. Lucas contemplates that its technique can be used broadly for handling documents in a computer system, including documents that are typed, scanned, faxed or emailed. Lucas at 1:49-52, 14:28-35.

15. CLAIM 22

22. A stream-based operating system as in claim 16 in which said display of said glance view comprises an abbreviated version of the respective document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

16. CLAIM 24

24. A stream-based operating system as in claim 16 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. "The system supports multiple renderers, and which renderer is used for a particular document is determined by an attribute of that document." Lucas at 5:46-48.

In addition, Lucas discloses that “[w]henver a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read. The system may staple an information sticker to the new document, thereby creating a fixed visual relationship between the information sticker and the new document. After the information sticker is stapled to the document, the information sticker will be displayed in the position at which it was stapled relative to the new document whenever the new document is displayed. The fields of the information sticker and their contents depend on where the document came from. The user can add or delete fields within the information sticker and edit them as needed. The user will typically add information to help find the document later. The user may alternatively fill in the fields by dragging the document over a tool which has been set up to automatically fill in certain fields of the information sticker. Once the desired fields are added and filled in, there is no need to "file" the document in the traditional sense. The user can remove it from the workspace, put it in a pile, or retrieve it later using the values typed in the information sticker fields. As an alternative to stapling information stickers to new documents, the system may use another means of annotation, such as making the new document a specific color, or writing text to an attribute or editable field of the new document.” Lucas at 19:42-67.

Likewise, Magellan “will automatically select one of its viewers to display the current file depending on the file's format,” however if the user selects a preferred viewer, Magellan will use this viewer whenever possible. Magellan Explorer's Guide at pg. 145.

17. CLAIM 25

25. A document stream operating system utilizing subsystems from another operating system running a computer, comprising:

Magellan discloses utilizing a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS. Magellan Explorer's Guide at back cover (“Systems Requirements: DOS versions 2.1 and higher”).

a document organizing facility associating chronological indicators with documents received from diverse applications in diverse formats and creating information specifying glance views of the respective documents and information specifying document representations of respective documents;

As described in more detail in Section V.B above (Claim Construction), the broadest reasonable construction of “document organizing facility associating chronological indicators with received or created documents” would encompass either a collection of documents or a collection of information about documents, such as an index. Likewise, the broadest reasonable construction of “associating chronological indicators with documents received,” includes using a date/time to uniquely identify each data unit *or* indexing that data unit using an object containing meta-data attributes which include timestamp information.

Applying the broadest reasonable constructions of these terms, the combination of Lucas and Magellan discloses associating chronological indicators with the documents created or received by the system. Specifically, Magellan discloses an index which identifies the time and date that each document was created or last modified. Magellan Explorer’s Guide at pp. 29, 186, Using Lotus Magellan at pg. 36. In addition, Lucas contemplates that the files that it displays will include timestamp information. For example, Lucas discloses that “whenever a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read” and “may staple an information sticker to the new document.” Lucas at 19:42-67. In the case of scanned documents, Lucas contemplates that the scanned document will have an information sticker that includes the date on which the document was scanned. Lucas at 4:43-48. As another example, Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at 14:28-35.

In addition, Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer’s Guide at pg. 4, 63, and 191. Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

a display facility displaying at least selected ones of said document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part each document representation except the first one in the displayed stack is visible to a user;

Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191.

Lucas discloses the display of files as a receding foreshortened stack of partly overlapping documents where only a part of each of said documents in the displayed stack, after the first document in the stack, is visible to the user:

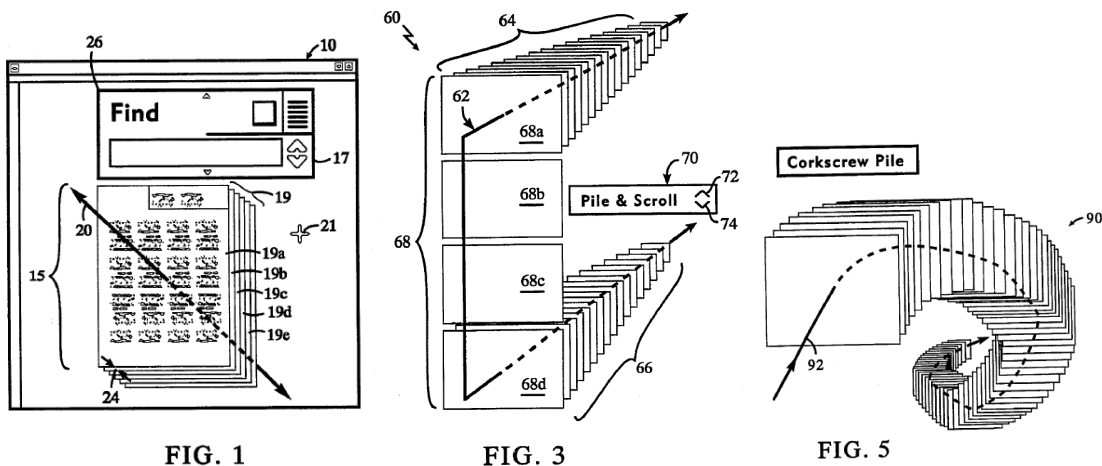


FIG. 1

FIG. 3

FIG. 5

Lucas at FIGS. 1, 3, 5. Lucas further discloses that “in a preferred embodiment of a workspace, the workspace is wrapped at the edges giving a fish-eye lens effect, so that every screen object that is not invisible has at least some portion of its rectangle within the screen display no matter what its position in the three dimensional workspace.” Lucas at 5:14-22.

said display facility further displaying a cursor or pointer and responding to a user sliding without clicking the cursor or pointer over said displayed stack of document representations to display the glance view of the document whose document representation is currently touched by the cursor; and

Lucas further discloses displaying a cursor or pointer and responding to a user sliding the cursor or pointer over said displayed stack to display the glance view of the

document in the stack that is currently touched by the cursor or pointer, without requiring clicking on the document. Specifically, Lucas discloses that

a track ball device may be used to manipulate the position of the mouse cursor. As the mouse cursor is moved toward the bottom of the screen, the screen object is dragged forward (towards the user) within the workspace. As the mouse cursor is moved toward the upper left corner of the screen instead of forward, the screen object is pushed back within the workspace. Note that as the screen object on the display device is being moved, the virtual location of the corresponding document maintained in the world space of the workspace viewer is being changed accordingly. Thus one can either say that the screen object is being moved, or that the document is being moved, and have the same meaning.

Lucas at 6:63-7:12.

Lucas goes on to disclose that

as a document is pulled forward, the document is moved towards the user along the z axis of the three dimensional workspace. The perspective process translates this movement of the object towards the user into a screen representation of the screen object for the document. As a result, the screen object for the document grows in size in its two dimensional screen space representation. Conversely, when a document is pushed back, the screen object for the document is made smaller.

Lucas at 7:13-21. In addition, Lucas discloses that, as the object moves toward the user screen and grows larger, a glance view of the document becomes visible to the user. Specifically, Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Indeed, when a document is pulled towards the user by sliding a cursor or track ball without clicking on the document such that it “plastered against the workplace window and cannot be moved any closer” to the user, that alternative version of the file or glance view comes to the front of the workspace window. Lucas at 7:13-27.

said document stream operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

Magellan discloses a document stream operating system that in turn utilizes subsystems from at least one other operating system, namely DOS, for operations

including writing documents to storage media, interrupt handling and input/output. Magellan Explorer's Guide at back cover ("Plus, Magellan offers a full complement of DOS utilities that allows you to copy, move, delete, back up and otherwise organize files as you choose.").

18. CLAIM 26

26. A document operating system as in claim 25 in which said document organizing facility associates said chronological indicators with documents at the time of receipt or creation of said documents without requiring a user to name the documents.

Lucas teaches that its document organizing system handles email. *See, e.g.*, Lucas at Col. 19, lines 42-67. Email received by a user is not required to be named by the user. In fact, Lucas further teaches that its system "will annotate that document to indicate that it has not been read. The system may staple an information sticker to the new document, thereby creating a fixed visual relationship between the information sticker and the new document... The fields of the information sticker and their contents depend on where the document came from." Lucas at Col. 19, lines 42-67. As described above, the document organizing system taught by Lucas associates chronological indicators with the documents at the time they are received or created, including email documents that are not named by the user.

19. CLAIM 29

29. A stream-based operating system as in claim 25 in which said display of said glance view comprises an abbreviated version of the respective document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

20. CLAIM 31

31. A stream-based operating system as in claim 25 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. “The system supports multiple renderers, and which renderer is used for a particular document is determined by an attribute of that document.” Lucas at 5:46-48.

In addition, Lucas discloses that “[w]henver a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read. The system may staple an information sticker to the new document, thereby creating a fixed visual relationship between the information sticker and the new document. After the information sticker is stapled to the document, the information sticker will be displayed in the position at which it was stapled relative to the new document whenever the new document is displayed. The fields of the information sticker and their contents depend on where the document came from. The user can add or delete fields within the information sticker and edit them as needed. The user will typically add information to help find the document later. The user may alternatively fill in the fields by dragging the document over a tool which has been set up to automatically fill in certain fields of the information sticker. Once the desired fields are added and filled in, there is no need to “file” the document in the traditional sense. The user can remove it from the workspace, put it in a pile, or retrieve it later using the values typed in the information sticker fields. As an alternative to stapling information stickers to new documents, the system may use another means of annotation, such as making the new document a specific color, or writing text to an attribute or editable field of the new document.” Lucas at 19:42-67.

Likewise, Magellan “will automatically select one of its viewers to display the current file depending on the file's format,” however if the user selects a preferred viewer, Magellan will use this viewer whenever possible. Magellan Explorer's Guide at pg. 145.

21. CLAIM 32

32. A method of displaying heterogenous documents from different applications in a receding, foreshortened stack of selected document representations of said documents and providing a set of commands applicable to the document representations in the stack, comprising:

Magellan discloses a computer search program that organizes all data units, or documents as construed by Patent Owner, generated by a computer or received by a computer over a network in order to facilitate viewing and locating files. Magellan Explorer's Guide at pg. 4, 63, and 191.

Lucas discloses the display of files as a receding foreshortened stack of partly overlapping documents where only a part of each of said documents in the displayed stack, after the first document in the stack, is visible to the user:

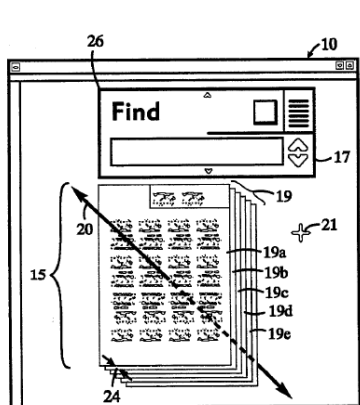


FIG. 1

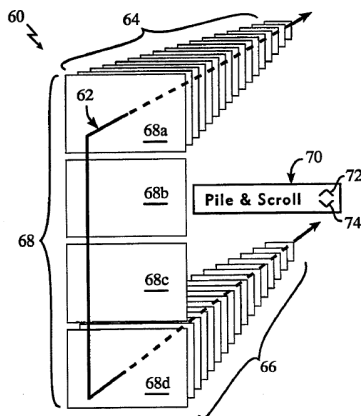


FIG. 3

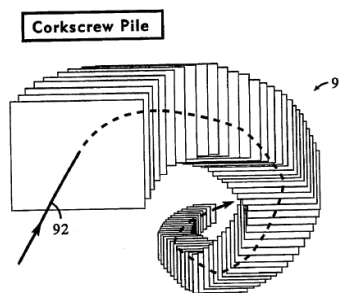


FIG. 5

Lucas at FIGS. 1, 3, 5. Lucas further discloses that "in a preferred embodiment of a workspace, the workspace is wrapped at the edges giving a fish-eye lens effect, so that every screen object that is not invisible has at least some portion of its rectangle within the screen display no matter what its position in the three dimensional workspace." Lucas at 5:14-22.

first displaying document representations of said documents received from different applications as a receding, foreshortened stack of partly overlapping document representations such that only a part of each of most document representations in the displayed stack is visible to the user;

As discussed above, Lucas discloses displaying documents in a three-dimensional stack of partly overlapping icons of the same size wherein only part of most document representations below the top document in the stack is visible. Lucas at Figs. 1, 3 and 5.

said stack being in a time order related to respective time-based indicators automatically associated with the documents at the time of receipt or creation thereof;

Magellan Explorer's Guide discloses using the sort and zoom commands to select which documents are represented on the display and displaying document representations corresponding to documents having timestamps, or time and date information, within a range of dates, such as between March 1988 and the present, for example. Magellan Explorer's Guide at pg. 40-42. Lucas also contemplates the display of email messages that are sorted by timestamp. Lucas at 14:28-35.

subsequently, while displaying the stack of document representations, responding automatically to touching a document representation in the stack with a user-operated cursor or pointer, without further action by the user, to display separately from the displayed stack of document representations, a glance view of the document whose document representation is currently touched by the cursor or pointer, said glance view being displayed while the displayed stack of document representations remains visible; and

Lucas further discloses displaying a cursor or pointer and responding to a user sliding the cursor or pointer over said displayed stack to display the glance view of the document in the stack that is currently touched by the cursor or pointer, without requiring clicking on the document. Specifically, Lucas discloses that

a track ball device may be used to manipulate the position of the mouse cursor. As the mouse cursor is moved toward the bottom of the screen, the screen object is dragged forward (towards the user) within the workspace. As the mouse cursor is moved toward the upper left corner of the screen instead of forward, the screen object is pushed back within the workspace. Note that as the screen object on the display device is being moved, the virtual location of the corresponding document maintained in the world space of the workspace viewer is being changed accordingly. Thus one can either say that the screen object is being moved, or that the document is being moved, and have the same meaning.

Lucas at 6:63-7:12.

Lucas goes on to disclose that

as a document is pulled forward, the document is moved towards the user along the z axis of the three dimensional workspace. The perspective process translates this movement of the object towards the user into a screen representation of the screen object for the document. As a result, the screen object for the document grows in size in its two dimensional screen space representation. Conversely, when a document is pushed back, the screen object for the document is made smaller.

Lucas at 7:13-21. In addition, Lucas discloses that, as the object moves toward the user screen and grows larger, a glance view of the document becomes visible to the user. Specifically, Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Indeed, when a document is pulled towards the user by sliding a cursor or track ball without clicking on the document such that it “plastered against the workplace window and cannot be moved any closer” to the user, that alternative version of the file or glance view comes to the front of the workspace window. Lucas at 7:13-27.

concurrently with displaying said glance view, displaying in the same display a set of command buttons, said command buttons being responsive to user clicks to cause respective operations to be performed on the document whose glance view is displayed at the time.

Lucas further discloses that its display shows command buttons that are responsive to user clicks to cause operations to be performed on the document that is displayed. For example, Figure 3 of Lucas discloses the tile and scroll tool 60 with a control button 70, with up arrow 72 and down arrow 74. Lucas at 10:52-11:5; FIG. 3.

22. CLAIM 33

33. A method as in claim 32 in which said displaying of document representations comprises displaying at least the top line of each document whose document representation is displayed in the stack.

Lucas discloses displaying at least the top line of a document representation in a stack. *See e.g.* Fig. 1, Fig. 10.

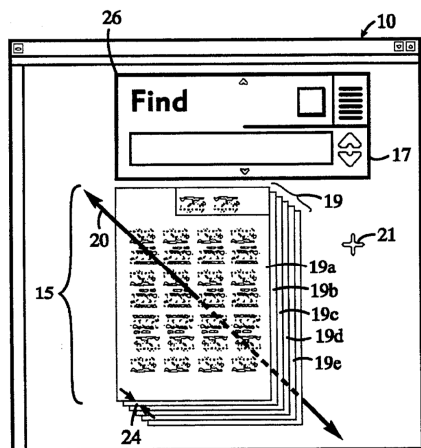


FIG. 1

23. CLAIM 34

34. A method as in claim 32 including visually identifying attributes of selected documents in the displayed stack of document representations by markings that are visible in the displayed stack, each marking being common to a class of documents.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. “The system supports multiple renderers, and which renderer is used for a particular document is determined by an attribute of that document.” Lucas at 5:46-48.

24. CLAIM 37

37. A stream-based operating system as in claim 32 in which said display of said glance view comprises an abbreviated version of the respective document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. Lucas also discloses that a user can clip a document so as to restrict the viewable area of the screen object associated with that document in a

view; clipping a document makes it look smaller without changing its position on the Z axis. Lucas at 19:26-33.

25. CLAIM 39

39. A stream-based operating system as in claim 32 in which said display of a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.

Lucas discloses that alternative versions of the content of files can be displayed, including through use of its document renderers, which draw a rectangle of the screen object associated with each document in a workspace and renders the interior of each screen object. Lucas at 5:42-57. “The system supports multiple renderers, and which renderer is used for a particular document is determined by an attribute of that document.” Lucas at 5:46-48.

In addition, Lucas discloses that “[w]henver a new document is scanned, faxed or sent through electronic mail, and then subsequently fetched to a workspace, the system will annotate that document to indicate that it has not been read. The system may staple an information sticker to the new document, thereby creating a fixed visual relationship between the information sticker and the new document. After the information sticker is stapled to the document, the information sticker will be displayed in the position at which it was stapled relative to the new document whenever the new document is displayed. The fields of the information sticker and their contents depend on where the document came from. The user can add or delete fields within the information sticker and edit them as needed. The user will typically add information to help find the document later. The user may alternatively fill in the fields by dragging the document over a tool which has been set up to automatically fill in certain fields of the information sticker. Once the desired fields are added and filled in, there is no need to “file” the document in the traditional sense. The user can remove it from the workspace, put it in a pile, or retrieve it later using the values typed in the information sticker fields. As an alternative to stapling information stickers to new documents, the system may use another means of annotation, such as making the new document a specific color, or writing text to an attribute or editable field of the new document.” Lucas at 19:42-67.

Likewise, Magellan “will automatically select one of its viewers to display the current file depending on the file's format,” however if the user selects a preferred viewer, Magellan will use this viewer whenever possible. Magellan Explorer's Guide at pg. 145.

VII. CONCLUSION

The prior art documents presented in the above Request were either not previously considered by the Office or are now being presented in a new light pursuant to MPEP §2642 (II). The claims of the ‘427 patent are not patentable over the prior art documents cited herein. The prior art documents teach the subject matter of the ‘427 patent in a manner such that substantial new questions of patentability for all claims are raised by this Request.

In view of the foregoing, it is respectfully submitted that a substantial new question of patentability of Claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 of Patent No. 6,725,427 has been raised by this Request. Accordingly, the Office is requested to grant this Request and to initiate reexamination with special dispatch. Claims 1-2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37 and 39 should be reexamined, rejected under 35 U.S.C. §§ 102-103, and canceled pursuant to this Request.

As an aid to the application of the presented prior art to claims of the ‘427 patent, corresponding claim chart is provided at Exhibit CC-A to CC-B attached hereto.

Enclosed is a credit card authorization to cover the Fee for reexamination. If this authorization is missing or defective please charge the Fee to the Novak Druce Deposit Account No. 14-1437.

NOVAK DRUCE + QUIGG, LLP
1000 Louisiana Ave.
53rd Floor
Houston, Texas 77002
P: 713-571-1500
F: 713-456-2836

Respectfully submitted,

/Tracy W. Druce/

Novak Druce & Quigg, LLP
Donald J. Quigg
Reg. No. 16,030
Tracy W. Druce
Reg. No. 35,493
James P. Murphy
Reg. No. 55,474
Brian K. McKnight
Reg. No. 59,914
Attorneys for Third Party Requester

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Request for *Inter Partes* Reexamination, together with all exhibits and attachments and supporting documentation, has been served via first class mail on the 23rd day of April, 2009, upon the following:

COOPER AND DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

/Johanna Weir/

Johanna Weir