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Examiner: Christopher E. Lee

Inter Partes Reexamination of U.S. Patent No. 6,725,427

Patent Granted On April 20, 2004

Title: DOCUMENT STREAM OPERATING SYSTEM WITH DOCUMENT
ORGANIZING AND DISPLAY FACILITIES

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**AMENDMENT IN RESPONSE TO FIRST OFFICE ACTION
IN INTER PARTES REEXAMINATION**

This Amendment is submitted in response to the first Office Action mailed on September 28, 2009.

Amendments to the claims are reflected in the **Listing of Claims** section which begins on page 2.

Remarks begin on page 10 of this paper.

Listing of Claims

The following listing of claims will replace all prior versions, and listings, of claims in the subject application:

1. (Original) A stream-based operating system utilizing subsystems from another operating system running a computer, comprising: a document organizing facility receiving documents created by diverse applications in diverse formats specific to the respective applications; 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; a display facility displaying at least selected document representations as a receding, foreshortened stack of partly overlapping document representations such that only a part of each displayed document representation, after the first in the stack, is visible to the user; said display facility further displaying a cursor or pointer and responding to user-controlled sliding without clicking of the cursor over said displayed stack to display a glance view of a document whose document representation is currently touched by the cursor or pointer; and 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.
2. (Original) A stream-based operating systems as in claim 1 in which said selected indicators are time-based.
3. (Original) A stream-based operating system as in claim 1 in which said another operating system is a Windows operating system.
4. (Original) A stream-based operating system as in claim 1 in which said another

operating systems is an Apple operating system.

5. (Original) 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.

6. (Original) A stream-based operating system as in claim 1 in which said display of a glance view comprises the first non-trivial words of the respective document resulting from header-stripping the document.

7. (Original) 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.

8. (Original) A controlling operating system utilizing subsystems from another operating system running a computer, comprising: a document organizing facility receiving documents from diverse applications in diverse formats specific to the respective applications; 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; a display facility displaying at least selected ones of said document representations; said display facility further displaying a cursor or pointer and responding to user-controlled sliding without clicking of the cursor or pointer over the displayed document representations to display at least a glance view of a document whose document representation is currently touched by the cursor or pointer; and said controlling operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

9. (Original) An operating systems as in claim 8 in which said selected indicators are time-based.
10. (Original) 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.
11. (Original) A stream-based operating system as in claim 8 in which said another operating system is a Windows operating system.
12. (Original) A stream-based operating system as in claim 8 in which said another operating systems is an Apple operating system.
13. (Original) 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.
14. (Original) A stream-based operating system as in claim 8 in which said display of a glance view comprises the first non-trivial words of the respective document resulting from header-stripping the document.
15. (Original) 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.
16. (Original) A controlling operating system utilizing subsystems from another operating system running a computer, comprising: 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; a display facility displaying at least selected ones of said document representations; said display facility further displaying a cursor or pointer and responding to a

user sliding without clicking the cursor or pointer over a portion of a displayed document representation to display the glance view of the document whose document representation is touched by the cursor or pointer; and said controlling operating system utilizing subsystems from said another operating system for operations including writing documents to storage media, interrupt handling and input/output.

17. (Original) An operating systems as in claim 16 in which said selected indicators are time-based.

18. (Original) 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 a user.

19. (Original) 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.

20. (Original) A stream-based operating system as in claim 16 in which said another operating system is a Windows operating system.

21. (Original) A stream-based operating system as in claim 16 in which said another operating systems is an Apple operating system.

22. (Original) 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.

23. (Original) A stream-based operating system as in claim 16 in which said display of a glance view comprises the first non-trivial words of the respective document resulting from header-stripping the document.

24. (Original) 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.

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

26. (Original) 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.

27. (Original) A stream-based operating system as in claim 25 in which said another operating system is a Windows operating system.

28. (Original) A stream-based operating system as in claim 25 in which said another operating systems is an Apple operating system.

29. (Original) 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.

30. (Original) A stream-based operating system as in claim 25 in which said display of a glance view comprises the first non-trivial words of the respective document resulting from header-stripping the document.

31. (Original) 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.

32. (Original) 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: 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; 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; 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 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.

33. (Original) 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.

34. (Original) 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.
35. (Original) A method as in claim 34 in which said markings comprise coloring of visible portions of selected document representations in the stack.
36. (Original) A method as in claim 35 in which said coloring comprises providing selected document representations in the displayed stack with borders of at least one selected color.
37. (Original) 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.
38. (Original) A stream-based operating system as in claim 32 in which said display of a glance view comprises the first non-trivial words of the respective document resulting from header-stripping the document.
39. (Original) 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.
40. (New) A method as in claim 32 including:
providing a computer system with documents from diverse applications in respective
formats unique to the respective applications;
causing the computer system to automatically, without user interaction and without
requiring a user to designate directory structures or other pre-imposed document
categorizations structures, create a time-ordered main stream of the received
documents;
said time-ordered main stream being unbounded to thereby accommodate documents
associated with time indicators related to past, present and future times;

said time-ordered main stream requiring no fixed beginning or end and being maintained and being selectively retrievable and searchable by the computer system;
said computer system maintaining the main stream live and responsive to subsequent events by automatically incorporating therein new documents as provided to the computer system while maintaining the thus expanded stream time-ordered;
providing selected search criteria;
causing said computer system to search said time-ordered main stream according to said search criteria and use search results to create a time-ordered substream of documents from the main time-ordered stream;
further causing said computer system to maintain said substream live and responsive to subsequent events by automatically incorporating therein new document provided to the computer system that meet the search criteria while maintaining the thus expanded substream time-ordered;
selecting said main stream or said substream for display of document representations thereof as said receding, foreshortened stack of document representations, said display reflecting the time-ordered nature thereof.

REMARKS

Claims 1-40 are in the case. Claims 1-39 are original patent claims, of which only claims 1, 8, 16, 25, and 32 are independent. Claim 40 is a dependent claims added by this amendment.

A. Introduction

The '427 Patent describes a stream-based operating system that does not rely on the conventional structure of directories and subdirectories or folders. "Conventional operating systems employ a 'desktop metaphor' which attempts to simplify common file operations by presenting the operations in the familiar language of the paper-based world, that is, paper documents as files, folders as directories, a trashcan for deletion, etc." ('427 Patent, col. 1, lines 38-42). However, "the paper-based model is a rather poor basis for organizing information where the state of the art is still a messy desktop and where one's choices in creating new information paradigms is constrained" ('427 Patent, col. 1, lines 42-45.)

In contrast, "A 'stream' according to the present invention is a time-ordered sequence of documents that functions as a diary of a person or an entity's electronic life. Every document created and every document send to a person or entity is stored in a main stream." '427 Patent, col. 4, lines 10-14. A streams according to the '427 Patent is unbound in size and in time, and includes documents from the past, the present and the future ('427 Patent, col. 5, line 57 – col. 6, line 11). At the time the stream-based operating system receives or creates a document, it subjects it to a number of automated operations that are transparent to the user and do not require user action or attention. Thus, as a document is received, the stream-based operating system:

- Automatically associates a respective indicator with the document and automatically archives the document and its associated indicator, in a consistent format for selective retrieval;
- Automatically creates a respective glance view and a respective document representation of the document.

A stream according to '427 Patent is displayed, in one embodiment, such that "at least some part of the stream is in the form of a receding stack of upright rectangles, framed in such a way that only the top line of each document is visible. A foreshortened viewing angle yields a view that is approximately a right triangle, the bottom edge aligned with the bottom of the

display and the left edge aligned with the display's left border.” ‘427 Patent, col. 9, lines 51-57. Fig. 1 illustrates this display, showing the displayed representations 10 of the documents in the form of a stack that recedes from right to left and bottom to top, and is foreshortened so that the document representations are seen in perspective, smaller in size as the stack recedes.

“Users can slide the mouse pointer 10 over the document representations to “glance” at each document” (‘427 Patent, col. 6, ll. 37-38) such that “when the user touches a document in the stream-display with the cursor, a browse card appears” (‘427 Patent, col. 8, ll. 4-6). Only touching the document is required, without other user action such as clicking or dwelling for a preset time on a collection of documents.

Mander¹ -- the sole reference for some claims and principal reference for others -- is an implementation of the “desktop metaphor” that the ‘427 Patent identifies as prior art. In Mander, directories and subdirectories or folders are replaced with “*piles*” that mimic the physical piles of paper on a desk. A pile according to Mander is simply another way of presenting to the user the contents of a folder of a conventional operating system based on directories and subdirectories or folders. As Mander explains, when a user puts documents in a pile, this modifies the pathnames of the documents to reflect the fact that they are now “in a pile *which is a new form of a subdirectory*,” or puts aliases of the documents in the pile. Mander, col. 9, lines 29-39. Conventional systems require the user to open a folder in order to view the files contained within it, and Mander puts those files in a pile and creates a graphical iconic representation based on the particular files in the pile. A user can then scan through the contents of a folder by dwelling the cursor over a pile for a predetermined period of time, or by invoking menus and clicking, and only then pointing at the various files depicted in the pile, which in turn can cause a proxy for the selected file to appear. Piles may be created manually by a user (e.g., by manually dragging a document icon onto a pile) or by the system according to a script or other means for grouping documents.

As explained below, Mander is fundamentally different than the ‘427 Patent, including, but not limited to, the fact that (i) a Mander “pile” is not a “stream” as described in the ‘427 patent, and Mander’s system is not a stream-based operating system, (ii) Mander does not automatically archive in consistent format; (iii) Mander does not display a stream (or even a pile)

¹ U.S. Patent 6,243,724 A.

as a “receding, foreshortened stack,” (iv) Mander does not teach displaying glance views by simply touching documents with a cursor, without requiring other user action, (v) Mander does not display glance views that result from complex analysis of the related documents, (vi) Mander does not display a stream with the top line of each document showing, and (vii) Mander does not display a stream with markings visible for each document to indicate a class to which the document belongs.

The secondary reference, the Retrospect² guide, is cited in connection with archiving in consistent format. It also is far from the concept of the stream-based system of the ‘427 Patent. Moreover, it does not teach the archiving system of the ‘427 Patent – it is closer to a conventional backup utility that once a day or less often copies or moves some or all of the directories and subdirectories or folders of a user’s computer into another storage medium such as tape.

B. Claimed features that are not found in the applied references

The material below discusses only some of the features that are recited in the claims at issue but are not found in the applied references.

1. The applied references do not teach a stream-based operating system; a Mander’s “pile” is not the “stream” defined in the ‘427 Patent

Claim 1 recites a “stream-based operating system” and claim 25 recites a “document stream operating system.” The claims dependent therefrom also include the respective recitations.

Retrospect is not applied to claim 25, and is not relied on for the “stream operating system” recitation of claim 1.

Mander does not teach a stream-based system or a document stream operating system at least for the following reasons:

(i) Mander’s “pile” is not a stream as the term is used in the ‘427 Patent, which states: “A ‘stream according to the present invention is a time-ordered sequence of

² “Retrospect User’s Guide,” version 3, first edition, published by Danz Development Corp., 1989-1995.

documents that functions as a diary of a person or entity's electronic life. Every document created and every document sent to a person or entity is stored in a main stream." '427 Patent, col. 4, lines 9-13. "The stream preserves the order and method of document creation." '427 Patent, col. 4, lines 30-31. "A stream has three main portions: past, present, and future." '427 Patent, col. 5, lines 57-58.

Mander's piles are fundamentally different from the streams used in the claimed stream-based or stream operating system and have numerous problems and deficiencies not present in streams.

(ii) Piles, which in Mander are a new form of a subdirectory (Mander, Col. 9, ll. 37-38), represent a limited, fairly small number of documents and are not suitable, as streams are, for representing the large numbers of documents expected in the electronic life of a person or an entity. As described in Mander, each pile is a graphical iconic representation of *all* the documents in the pile (but only in that pile), all in the same size. Such a graphical representation may be practical for a dozen or so documents in each pile, as depicted, for example, in Mander's Fig. 13b. But if more documents are included in the displayed piles, they would quickly overwhelm the available screen space. For example, a pile of a few hundred documents is not practical for a Mander-type display as it would be too tall for the screen. Mander piles, therefore, are not practical for representing large numbers of documents and apparently are not intended for that purpose.

In contrast, streams according to the '427 Patent are unbound, requiring no fixed beginning or end. A stream view can easily and naturally be used to display a large number of documents since the user can choose to display any portion of a stream at any given time and the nature of the display can pack a large number of document representations on the screen. The stream view may provide a perspective or receding view that gives natural visual cues that the stream may include additional documents. Fig. 1 of the '427 patent in fact depicts such a stream view—wherein browse cards for over 40 documents in the stream are displayed. There is no disclosure whatsoever of such a capability in Mander. There is no notion in Mander of displaying a portion of a pile.

(iii) Mander relies upon the simultaneous display of numerous piles, which is both confusing and impracticable. It may explain one reason why there has been no commercial product embodying Mander.^[3] As seen in Fig. 13b in Mander, even a small number of piles can quickly fill the available screen space. A dozen such piles would present a confusing jumble to a user and make it difficult for a user to find a particular pile that could be of interest.

The '427 patent has a different underlying concept from Mander. In the '427 patent, there is an underlying time-ordered collection of user documents (a time-ordered stream) that can be displayed either in its entirety or in any part. A stream is not a graphical representation of the contents of a directory or file in a conventional system, which is what Mander essentially does.^[4] Instead, a stream makes the nature and location of all document storage transparent to the user. Accordingly, unlike Mander, which first creates multiple piles and only then displays individual piles, the stream-based operating system of the '427 patent organizes all documents into a stream and permits the user to view the stream in its entirety or in any selected part, in each case retaining the inherent time order in the displayed material without requiring any action by the user that would select time order. Thus, in the system of the '427 patent it is natural to display one view of a stream or a portion thereof at a time, which is not the case for the piles in Mander.

(iv) Piles are a confusing user-interface concept insofar as they may contain both documents and aliases for documents, (Mander, col. 9, lines 30-39; col. 30, lines 36-41), and, as a result, it is unclear, for example, what happens when a document in a pile is deleted. Is the document deleted from the computer or is it only deleted from the pile?

In contrast, a stream in the '427 patent forms a coherent, intuitive system. There is no confusion, therefore, regarding whether a stream contains documents or aliases, as in Mander, and what effect that may have on user operations.

^[3] See, e.g., the Requester's response to Interrogatory No. 4, stating that the Requestor "does not currently contend that it has sold or offered for sale any product that falls within the scope of any asserted claims of [U.S. Patent No. 6,613,101, granted on a continuation of Mander]. Copy attached as Exhibit A hereto.

^[4] The '427 Patent does not exclude a concurrent use of and assistance from modules of conventional operating system but adds, on top, the stream-based organization described in the '427 Patent.

2. The applied references do not teach the claimed automatic archiving in consistent format

Claims 1 and 8 recite that the new operating system includes a document organizing facility “automatically archiving the documents and indicators in consistent format.” The claims dependent thereon also include this feature.

The Office Action notes that “Mander does not expressly disclose automatically archiving the documents and indicators in consistent format for selective retrieval” (page 10, lines 29-30 and page 12, lines 29-30), and relies on Retrospect for this claimed feature, citing to pages 81-87, 98, 104, 140, 151 and 155 in Retrospect.

Retrospect is a backup tool adapted to the Macintosh environment. As conventional, it can be set up to do unattended backups of specified content, e.g., to backup every day onto tape the documents that were updated or created since the last backup. However, Retrospect still operates on the conventional structure of directories and subdirectories or folders, and thus copies to the backup tape the documents in their respective diverse formats.

Retrospect explains in pages 83-84 that unattended backup requires selecting the source of the documents that will be backed up, and explains in pages 131-138 that volumes, subvolumes and folders can be selected. However, each of these sources can contain documents that have been created by diverse applications in respective diverse formats. There is no notion in Retrospect of storing these documents on the backup tape in consistent format.

Retrospect refers on page 98 to scheduled executions of backup where dates and times are specified. However, this only refers to when the backup would start; it does not refer to how the documents will be stored. They are stored on tape in the diverse formats as they appear in volumes, subvolumes and folders rather than in consistent format.

Retrospect refers on page 104 to archiving and states that an “archive script is just like a backup script but has the added option of moving – rather than copying – files from the source to

the archive media.” Thus, archiving in Retrospect is still limited to moving files as they appear in source volumes and subvolumes or folders rather than archiving in consistent format.

Retrospect refers on page 140 to browsers that “unfold” the contents of a volume. Thus only confirms that the content copied or moved to tape (or some other backup or archive medium) is in the formats of the original volumes.

Last, Retrospect refers on pages 151-155 to “Selector Conditions,” one of which can be “Date.” However, this again does not teach archiving in consistent format. If a Date is used as a Selector Condition, still the folders that match the condition can comprise diverse documents in diverse formats, in which diverse formats they are backed up or archived.

3. The applied references do not teach displaying the claimed receding, foreshortened stack

Independent claims 1, 25, and 32, and thus their respective dependent claim, as well as dependent claims 10 and 18, recite that the display facility displays “a receding, foreshortened stack of partly overlapping document representations.” Fig. 1 of the ‘427 Patent shows a stack that recedes from lower right to upper left, and is foreshortened to show perspective, with the successive documents smaller in size. ‘427 Patent, col. 9, lines 51-57.

The Office Action refers to Figs. 2a-2d in Mander for this claimed feature, but these Mander piles are neither receding nor foreshortened. Mander displays each pile as a stack of documents that are all the same size and extend vertically. These vertical stacks do not recede into the screen. They are not foreshortened as they do not show perspective. Mander in col. 7, lines 1-10 does not suggest displaying a pile as a stack that recedes into the screen or is foreshortened to show perspective.

Retrospect is not cited for this claimed feature.

4. The applied references do not teach displaying glance views simply by touching any document representation in the displayed stream with the cursor or pointer

Independent claims 1, 8, 16, 25, and 32, and thus all dependent claims, recite that the display facility displays a glance view of a document whose document representation is currently touched by the cursor or pointer. The phrasing differs somewhat between claims: claim 1 refers to “a glance view of a document whose document representation is currently touched by the cursor or pointer,” claim 8 refers to “at least a glance view of a document whose document representation is currently touched by the cursor or pointer,” claim 16 refers to “the glance view of the document whose document representation is touched by the cursor or pointer,” claim 25 refers to “the glance view of the document whose document representation is currently touched by the cursor,” and claim 32 refers to “a glance view of the document whose document representation is currently touched by the cursor” and emphasizes that this occurs “without further action by the user.”

The Office Action points to Mander, col. 9, line 54 – col. 10, line 1, col. 19, line 63 – col. 20, line 9, and col. 26³, line 66 – col. 27, line 40 for this feature. However, in Mander the display is not simply in response to touching a document representation with a cursor or pointer – Mander requires additional user actions. According to Mander’s col. 9, lines 54-59, “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 the predetermined period of time, the computer system displays a view cone 162 with a proxy 161 ...” Mander’s col. 19, line 63 – col. 20, line 9 describe even more actions that the user must take before viewing the contents of a pile, including mouse clicks and invoking pull down menus. Mander’s col. 27, lines 6-19 again explain that the cursor must remain on a pile for a predetermined period of time before a view cone would appear.

All these Mander operations require more user commands than simply touching a document representation with the cursor or pointer to bring up a glance view of the document. The Mander approach involved delays and additional user actions; the claimed facility simply brings up the glance view upon touching the document representation.

Retrospect is not cited for this claimed feature.

³ The Office Action identifies “col. 16” but this is believed to be a mistype for col. 26.

5. The applied references do not teach displaying a glance view resulting from complex analysis of a document

Dependent claims 7, 15, 24, 31, and 39 state that “a glance view comprises important words, pictures, and/or sounds of the respective document resulting from complex analysis of the document.” This is an alternative to recitals such as in claim 6, referring to a glance view resulting from header-stripping of a document. “In one embodiment, the browse card creation operation does header stripping so that the browse card displays the first non-trivial words in a document. In another embodiment, complex analysis is performed on the document contents so that ‘most important’ words, pictures and/or sounds are presented.” ‘427 Patent, col. 8, lines 10-15.

The Office Action refers to Mander’s col. 10, lines 15-27 and 31-35. However, no teaching could be found in this portion of Mander of a glance view resulting from complex analysis of a document and containing important words, pictures, and/or sounds of the respective document. According to Mander’s col. 9, line 65 – col. 10, line 1. the proxy 161 is simply “a miniature of the first page of the document which has been selected fro browsing.”

Retrospect is not cited for this claimed feature.

6. The applied references do not teach displaying at least to top line of each document in the receding, foreshortened stack

Dependent claim 33 recites “displaying at least the top line of each document whose document representation is displayed in the stack.”

The Office Action refers to Mander’s col. 7, lines 1-10 for this feature. However, there is no teaching in this portion of Mander that the first line of each document in a pile should be displayed. Displaying the first line of each document in the receding, foreshortened stack specified in parent claim 32 and illustrated as an example in Fig. 1 of the ‘427 Patent is practical and possible, but this is not the case with the vertical piles of Mander’s proposal. In fact, the top line of each document in a Mander pile is obscured by the document on top and only the top line of the top document in the pile is seen in all Mander figures illustrating vertical piles.

Retrospect is not cited for this claimed feature.

7. The applied references do not teach displaying the document representations with marking that are visible in the displayed stack and are common to respective classes of documents

Dependent claim 34 states that the document representations in the receding, foreshortened stack recited in parent claim 32 include markings that are “visible in the displayed stack of document representations” and each marking is “common to a class of documents.”

Mander does not teach this feature in the portions that the Office Action cites. Mander’s col. 20, lines 40-43 propose using color “for mapping the measure of date/age of the document.” However, this is not a proposal to use color to differentiate between different classes of documents, e.g., memos from pictures. Mander’s col. 11, lines 57-60 and col. 11, line 65 – col. 12, line 3 propose exaggerating certain content of documents, e.g., a grid in a spreadsheet. However, this proposal is limited to exaggerating pre-existing content of documents and does not extend to placing different markings on different classes of displayed document representations. Moreover, there is no teaching that such exaggeration would be “visible in the displayed stack.” In fact, such exaggerated content may be visible only if it happens to be in the top document in the pile. This would not satisfy the requirement of claim 34 of markings, not just a single marking, be visible in the displayed stack even if exaggerated content could be considered a marking identifying respective different classes of documents.

D. New dependent claim 40

New claim 40 depends from original patent claim 32, and adds further limitations that are not present in the applied references. It is submitted that claim 40 is supported by the original patent disclosure.

E. Conclusion

As discussed above, Mander does not teach at least one of the features recited in the claims for which Mander is relied on as an anticipatory reference (claims 16-19, 22, 24-26, 29, 31-34, 37 and 39).

Also as discussed above, neither of Mander and Retrospect teaches at least one of the features recited in the claims for which the combination of the two references is relied on (claims 1, 2, 5, 7-10, 13, and 15). Moreover, it is submitted that it would not have been obvious to modify Mander, which is directed to displaying piles of documents, with Retrospect, a guide addressing the different problem of how to backup documents rather than how to display them for the user's convenience.

The Patent Office is hereby authorized to charge any fees that are required in connection with this amendment, and to credit any overpayment, to our Deposit Account No. 03-3125.

Respectfully submitted,



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EXHIBIT A

to

AMENDMENT IN RESPONSE TO FIRST OFFICE ACTION

IN *INTER PARTES* REEXAMINATION

, IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MIRROR WORLDS, LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Civil Action No. 6:08-cv-88-LED

JURY TRIAL DEMANDED

**APPLE INC.'S RESPONSES TO MIRROR WORLDS, LLC FIRST SET OF
INTERROGATORIES TO APPLE INC.**

(INTERROGATORY NOS. 1 – 12)

GENERAL OBJECTIONS

Apple makes the following General Objections to Mirror Worlds LLC's First Set of Interrogatories, which apply to each interrogatory therein regardless of whether a General Objection is specifically incorporated into a response to a particular interrogatory.

1. Apple objects to each interrogatory, definition, or instruction to the extent it seeks or purports to impose obligations beyond or inconsistent with those imposed by the Federal Rules of Civil Procedure, the applicable rules and orders of this Court, or any stipulation or agreement of the parties in this action.

2. Apple objects to the Interrogatories to the extent they request information not relevant to a claim or defense in this action, or not reasonably calculated to lead to the discovery of admissible evidence.

3. Apple objects to the Interrogatories to the extent they seek information of

"products, items, or services," "in connection or associated with," "in any other manner," "at any time," "revenue inside the United States," "revenues outside the United States," "in any other fashion," "realized," "associated with," "directly relating," "forecasts, projections, or predictions," "persons most knowledgeable," "relating to," and "used to answer" as overbroad, unduly burdensome, vague and ambiguous.

Apple further objects to each subpart of this interrogatory on the grounds that it seeks extensive information about products that are not accused of infringement by Mirror Worlds and that have no relevance to this case. Apple has provided extensive financial information for products that contain features accused of infringement in this case in response to Interrogatories 2(a) to 2(k) above. Mirror Worlds has not articulated any "convoyed sales" theory of damages to date. If Mirror Worlds properly adds additional allegations of infringement and/or damages to this case, Apple will reevaluate its response to each subpart of this interrogatory.

INTERROGATORY NO. 4:

With respect to U.S. Patent No. 6,613,101 ("the '101 patent"),

- (a) state whether Apple has ever marked any product with the '101 patent in the manner set forth in 35 U.S.C. § 287 and, if so, identify those products by product name, model, and version number, as applicable, and identify the time period when each was made, sold, or offered for sale, and
- (b) state whether Apple has ever made, sold, or offered for sale any product that falls within the scope of any claims of the '101 patent and, if so, identify the product by product name, model, and version number, as applicable, and state when each was made, sold, or offered for sale, and
- (c) identify the persons most knowledgeable about the facts relating to this interrogatory and all documents used to answer, or relating to, this interrogatory.

RESPONSE TO INTERROGATORY NO. 4:

In addition to its General Objections, Apple objects to the Interrogatory on the grounds that it contains multiple, discreet interrogatories; Apple counts three subparts to this interrogatory. Apple objects to each subpart of this interrogatory on the grounds that it is vague, ambiguous, overly broad and unduly burdensome, and seeks information that is neither relevant to the claims or defenses of any party nor calculated to lead to the discovery of admissible evidence. Apple also objects to phrases and words such as “ever,” “falls within the scope of,” “persons most knowledgeable,” and “relating to” as overbroad, unduly burdensome, vague and ambiguous. Apple also objects to the extent that this Interrogatory asks for a legal conclusion. Apple further objects that, unless and until the Court grants Apple’s Motion for Leave to Amend its Answer, Counterclaims and Affirmative Defenses, the ’101 patent is not in suit except as potential prior art, and thus Apple objects to each subpart of this interrogatory because it seeks information that is not reasonably calculated to lead to admissible evidence in this litigation. Apple further objects to each subpart of this interrogatory because aspects of it are premature in light of Patent Local Rule 2-5 and the lack of a claim construction regarding the ’101 patent. Apple objects to the phrase “most knowledgeable,” and any identification by Apple of knowledgeable persons regarding particular subject matter is expressly without any representation that such persons are “most knowledgeable” about the type of information. Apple’s investigation is on-going and Apple reserves the right to amend, supplement, and/or correct its response to each subpart of this interrogatory as additional information becomes available to Apple during the course of its discovery and investigation.

Subject to and without waiving its General and Specific objections, Apple responds as follows:

4(a). Apple has not marked with the '101 patent, in the manner set forth in 35 U.S.C. § 287, any product that was made, sold, or offered for sale.

4(b). Apple responds that the Court has not yet construed the claims of the '101 patent. Subject to its specific objection that this interrogatory is premature in light of the lack of claim construction and Patent Local Rule 2-5, Apple further responds that it does not currently contend that it has sold or offered for sale any product that falls within the scope of any asserted claims of the '101 patent. Apple has made prototypes and demonstration systems of products that would fall within the scope of the claims of the '101 patent. These prototypes and/or demonstration systems were referred to as "piles" prototypes and/or demonstrations.

4(c). Apple identifies Kevin Tiene as a person knowledgeable about the "piles" demonstrations / prototypes.

INTERROGATORY NO. 5:

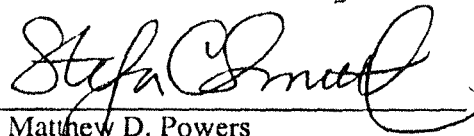
Separately for each of the Patents-in-Suit, identify the date on which Apple first became aware of the patent and describe in detail the circumstances in which Apple became aware of the patent, including, but not limited to identifying the individual(s) who learned of the patent and their respective positions and titles at Apple, and identify the persons most knowledgeable about the facts relating to this interrogatory and all documents used to answer, or relating to, this interrogatory.

RESPONSE TO INTERROGATORY NO. 5:

In addition to its General Objections, Apple objects to the Interrogatory on the grounds that it is compound and contains subparts. Apple also objects to phrases and words such as "aware of," "positions and titles," "persons most knowledgeable," "relating to," and "used to answer" as overbroad, unduly burdensome, vague and ambiguous. Apple objects to the extent this interrogatory seeks information that is already in Mirror Worlds' possession. Apple objects to this interrogatory to the extent it seeks information available through other means that are more convenient, less burdensome or less expensive, including documents produced by Apple.

between Spotlight in Tiger and Spotlight in Leopard may be found at APMW0011640-APMW0011654 and APMW0011674-APMW0011850. In addition, Apple will make source code relating to Spotlight in both MAC OS X 10.4 (Tiger) and MAC OS X 10.5 (Leopard) available for inspection in this case according to the terms of a Protective Order, and pursuant to Federal Rule of Civil Procedure 33(d), Apple further responds that this source code shows the differences between these versions of Spotlight. A person knowledgeable regarding some of the differences between Spotlight in MAC OS X 10.4 (Tiger) and MAC OS X 10.5 (Leopard) is Yan Arrouye.

Dated: April 9, 2009



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **AMENDMENT IN RESPONSE TO FIRST OFFICE ACTION IN *INTER PARTES* REEXAMINATION**, including Exhibit A (Apple Inc's Responses to Mirror Worlds, LLC First Set of Interrogatories to Apple Inc. in connection with Reexamination Control No. 95/001,172 of U.S. Patent No. 6,725,427 has been served via first class mail on the 28th day of October, 2009 upon:

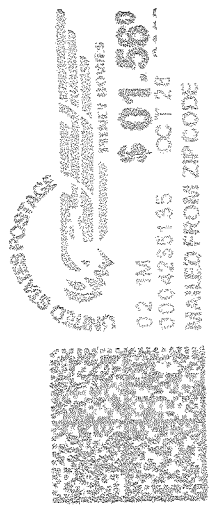
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