

Exhibit D-1 (Amended)



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junk w/
amattc
PATENT-8-03
K. Parrell

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

FREIBERGER, et al

Serial No. 09/528,803

Filed: March 20, 2000

For: ATTENTION MANAGER
FOR OCCUPYING THE PERIPHERAL
ATTENTION OF A PERSON IN THE
VICINITY OF A DISPLAY DEVICE

Examiner: Jeffery A. Brier

Art Unit: 2672

Docket No. INT1P869C2

December 30, 2002

RECEIVED

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Technology Center 2600

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on December 2, 2002.

Signed: Pat Tate
Pat Tate

AMENDMENT 1

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

This is in response to the Office Action mailed July 30, 2002. The following amendments and remarks are respectfully submitted.

01/07/2003 AOSMAN1 00000071 09528803

02 FC:1252 400.00 DP

Attorney Docket No. INT1P869C2

IN THE CLAIMS

Please amend the claims as follows:

SW
D2

al
cancel

68. (Amended) A method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

providing one or more sets of content data to the display device or to a content display system associated with the display device;

providing to the display device or to the content display system a set of instructions for enabling the display device to selectively display, in an unobtrusive manner that does not distract a user of the display device or the apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from a set of content data; and

auditing the display of sets of content data by the display device;

wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

SW
D3

al
cancel

70. (Amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for providing one or more sets of content data to the display device or to a content display system associated with the display device;

instructions for providing to the display device and/or to the content display system a set of instructions for enabling the display device to selectively display, in an unobtrusive manner that does not distract a user of the display device or the apparatus associated with the display device from a primary interaction with the

display device or apparatus, an image or images generated from a set of content data;
and

instructions for auditing the display of sets of content data by the display device;

wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

*CA
concl.*

72. (Amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

*SW
DU*

instructions for acquiring a set of content data from a content providing system;

instructions for detecting an idle period of predetermined duration; and

instructions for selectively displaying on the display device, after detection of the idle period and in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from the set of content data;

*CA
concl*

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

74. (Amended) A system for engaging the peripheral attention of a person in the vicinity of a display device, comprising:

*SW
DU
CA
concl*

data acquisition apparatus that enables acquisition of a set of content data;

display apparatus that effects selective display on the display device, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, of an image or images generated from the set of content data;

user input apparatus that enables selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

a system control device that controls aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

C4
control

77. (Amended) A method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

acquiring a set of content data from a content providing system;

selectively displaying on the display device, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from the set of content data;

enabling selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

controlling aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the

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C5
control

OB
respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

5/5
D7
80. (Amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for acquiring a set of content data from a content providing system;

instructions for selectively displaying on the display device, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from the set of content data;

CLL
instructions for enabling selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

instructions for controlling aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

REMARKS

Claims 68, 70, 72, 74, 77, and 80 have been amended to clarify the subject matter regarded as the invention. Claims 68-82 remain pending.

The Examiner has rejected claims 68-82 on non-statutory double patenting grounds, as well as under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §102(e), based on Gayraud and/or Rakavy, as applicable.

The terminal disclaimer filed concurrently herewith is believed to overcome the non-statutory double patenting rejection.

The claims have been amended to remove the “and/or” formulation on which the rejections under 35 U.S.C. §112, first paragraph were based. As such, the rejection of the claims under 35 U.S.C. §112, first paragraph is believed to have been overcome.

The rejection of the claims under 35 U.S.C. § 102(e) is respectfully traversed. With respect to claim 68, Gayraud teaches providing in a window on the periphery of the user area of a display textual “hints” of the function associated with toolbar and other icons displayed on the display. Gayraud at 3:20-4:5 & Figures 3A-D and associated text. Rakavy teaches transmitting and displaying advertising content by employing a local agent to download and display advertisements, with the content being determined by user-indicated preferences and configuration information. Rakavy at 2:60-3:63, 5:30-6:30, 9:15-10:41. Claim 68 has been amended to recite “wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content

data". Neither Gayraud nor Rakavy teaches such tailored control by a content provider of the duration, sequencing, and/or timing of the display of a set of content data. As such, claim 68 is believed to be allowable.

Claim 69 depends from claim 68 and is believed to be allowable for the same reasons described above.

Claim 70 has been amended similarly to claim 68 and is believed to be allowable for the same reasons described above.

Claim 71 depends from claim 70 and is believed to be allowable for the same reasons described above.

Claim 72 has been amended similarly to claim 68 and is believed to be allowable for the same reasons described above.

Claim 73 depends from claim 72 and is believed to be allowable for the same reasons described above.

Claim 74 has been amended similarly to claim 68 and is believed to be allowable for the same reasons described above.

Claims 75-76 depend from claim 74 and are believed to be allowable for the same reasons described above.

Claim 77 has been amended similarly to claim 68 and is believed to be allowable for the same reasons described above.

Claims 78-79 depend from claim 77 and are believed to be allowable for the same reasons described above.

Claim 80 has been amended similarly to claim 68 and is believed to be allowable for the same reasons described above.

Claims 81-82 depend from claim 80 and are believed to be allowable for the same reasons described above.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment with additions underlined and deletions struck through. The attached page is captioned "Version with markings to show changes made."

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks. If at any time the Examiner believes that an interview would be helpful, please contact the undersigned.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

AMENDMENTS TO THE CLAIMS

68. (Amended) A method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

providing one or more sets of content data to the display device [and/]or to a content display system associated with the display device;

providing to the display device [and/]or to the content display system a set of instructions for enabling the display device to selectively display, in an unobtrusive manner that does not distract a user of the display device [and/]or [an] the apparatus associated with the display device from a primary interaction with the display device [and/]or apparatus, an image or images generated from a set of content data; and

auditing the display of sets of content data by the display device;

wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

70. (Amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for providing one or more sets of content data to the display device [and/]or to a content display system associated with the display device;

instructions for providing to the display device and/or to the content display system a set of instructions for enabling the display device to selectively display, in

an unobtrusive manner that does not distract a user of the display device [and/]or [an] the apparatus associated with the display device from a primary interaction with the display device [and/]or apparatus, an image or images generated from a set of content data; and

instructions for auditing the display of sets of content data by the display device;

wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

72. (Amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for acquiring a set of content data from a content providing system;

instructions for detecting an idle period of predetermined duration; and

instructions for selectively displaying on the display device, after detection of the idle period and in an unobtrusive manner that does not distract a user of the display device [and/]or an apparatus associated with the display device from a primary interaction with the display device [and/]or apparatus, an image or images generated from the set of content data;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

74. (Amended) A system for engaging the peripheral attention of a person in the vicinity of a display device, comprising:

data acquisition apparatus that enables acquisition of a set of content data;

display apparatus that effects selective display on the display device, in an unobtrusive manner that does not distract a user of the display device [and/]or an apparatus associated with the display device from a primary interaction with the display device [and/]or apparatus, of an image or images generated from the set of content data;

user input apparatus that enables selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

a system control device that controls aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

77. (Amended) A method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

acquiring a set of content data from a content providing system;

selectively displaying on the display device, in an unobtrusive manner that does not distract a user of the display device [and/]or an apparatus associated with the display device from a primary interaction with the display device [and/]or apparatus, an image or images generated from the set of content data;

enabling selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

controlling aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

80. (Amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for acquiring a set of content data from a content providing system;

instructions for selectively displaying on the display device, in an unobtrusive manner that does not distract a user of the display device [and/]or an apparatus associated with the display device from a primary interaction with the display device [and/]or apparatus, an image or images generated from the set of content data;

instructions for enabling selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

instructions for controlling aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,803	03/20/2000	Paul A. Freiburger	IR-003-C2	6272

21912 7590 02/14/2003
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LOS ALTOS, CA 94022

EXAMINER

BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
2672	

2672

DATE MAILED: 02/14/2003

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

Office Action Summary

Application No.

09/528,803

Applicant(s)

FREIBERGER ET AL.

Examiner

Jeffery A. Brier

Art Unit

2672

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 January 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 68-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 68-82 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) Other:

DETAILED ACTION

Response to Amendment

1. The amendment filed on 01/06/03 has been entered. This amendment amended independent claims 68, 70, 72, 74, 77 and 80. The terminal disclaimer filed on 01/06/03 has been reviewed and is deemed to be proper, thus, the obvious type double patenting rejection has been overcome by the filing of a proper terminal disclaimer. The amendment to the independent claims overcomes the 102 (e) rejections and overcomes the 112 first paragraph rejection except for claim 70 since applicant failed to amend claim 70 at line 6 similar to the other independent claims (and/or remains).
2. The amendment filed 05/20/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: on page 2 of that amendment applicant amended page 1 of the specification with "which co-pending application is incorporated by reference for all purposes". This statement was not in the application as filed on 03/20/00, thus, it is new matter since any matter that was in the co-pending application and not in this application at the time of filing this application is matter that was not in this application at the time of filing this application.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 70 and 71 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention for the reasons given in paragraph 4 of paper no. 10. Applicant failed to amend claim 70 at line 6 similar to the other independent claims (and/or remains).

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 68-82 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 68:

At line 7 "the apparatus" lacks antecedent basis in the claim (the was added by applicant in the 01/06/03 amendment). At line 15 "and/or" is indefinite because "the timing" and "the duration" are the same as well as "the timing" and "the sequencing". See applicants' specification at page 34 line 1 to page 35 line 31. Thus, controlling the duration or timing does not clearly claim applicants system since duration and timing are the same, thus, alternatively claiming one of them is still claiming the same thing.

Similarly controlling the timing or the sequencing does not clearly claim applicants system since timing and sequencing are the same. At lines 13-15 “the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data” is indefinite because it is not clear if these scheduling instructions are controlling the display of the images generated from the set of content data at lines 6-9 since lines 13-15 are displaying the content data and not the images generated from the content data.

Claim 70:

At lines 8-9 “the apparatus” lacks antecedent basis in the claim (the was added by applicant in the 01/06/03 amendment). At line 17 “and/or” is indefinite for the same reasons given for claim 68. At lines 13-15 “the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data” is indefinite for the reasons given for claim 68.

Claim 72:

At line 14 “and/or” is indefinite for the same reasons given for claim 68. At lines 13-15 “the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data” is indefinite for the reasons given for claim 68.

Claim 74;

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At line 16 “and/or” is indefinite for the same reasons given for claim 68. At lines 15-17 “the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data” is indefinite for the reasons given for claim 68.

Claim 77:

At line 15 “and/or” is indefinite for the same reasons given for claim 68. At lines 14-16 “the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data” is indefinite for the reasons given for claim 68.

Claim 80:

At line 16 “and/or” is indefinite for the same reasons given for claim 68. At lines 15-17 “the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data” is indefinite for the reasons given for claim 68.

Claim Rejections - 35 USC § 102

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

A person shall be entitled to a patent unless –

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

Claims 68, 70, 72, 74, 76, 77, 79, 80 and 82 are rejected under 35 U.S.C. 102(e) as being anticipated by Farber et al., U.S. Patent No. 5,819,284. Farber describes a system that displays information from content providing sources while the user is not performing a primary interaction with the display device or an apparatus associated with the display device.

Claim 68:

Farber teaches providing a set of content data from each of several sources, traffic, weather, financial, and other, figure 2, to a display device or content providing system, step 323. The images displayed in step 323 are during the screen saver mode, thus, the images do not distract the user from a primary interaction with the display device or associated apparatus. Farber at column 4 lines 8-11 teaches “the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data” since the providing may send information (new information is an instruction to display new information) at the provider’s control to the client, thus controlling the duration, sequencing, and timing of the images displayed and since the claim does not claim the particulars of how the claimed system responds to the scheduling instructions to perform the claimed function of controlling the duration, sequencing, and/or timing of the display of the set of content data.

Claim 70:

This claim is similar to claim 68 with the exception that it is a computer readable medium claim and it claims at line 12 instructions for auditing the display of sets of

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content data by the display device. For the computer readable medium difference note Farber is a computer system and note Farber's claim 11, thus, Farber teaches this aspect of claim 70. As for the instructions for auditing aspect of the claim note that in order to float the images 401-406 illustrated in figure 4 and described at column 6 lines 40-63 the system needs to keep track of the images, thus, an auditing is performed commensurate in scope with the broadly claimed instructions for auditing.

Claim 72:

This claim is broader than claim 68 since it does not claim the auditing step. Like claim 70 this claim is a computer readable medium claim. For the computer readable medium difference note Farber is a computer system and note Farber's claim 11, thus, Farber teaches this aspect of claim 72.

Claim 74:

This claim is similar to claim 68 with the exception that it is a system claim and since it claims selection by a user of one or more control options. For the system difference note Farber is a computer system. As for the selection by a user of one or more control options note the claim does not claim when the user selects the options, it just claims selection of one or more control options during the selective display of the image or images generated from the set of content data. In figure 2 Farber shows a user profile database which is formed by the user, see column 4 lines 42-62. Thus the database is a user input apparatus that enables selection of one or more control options.

Claim 76:

See column 1 lines 35-40 of Farber. Thus, Farber teaches a link control option that enables the user to establish a link with an information location.

Claims 77 and 80:

These claims claim the same functional limitations that claim 74 claims. The difference being these claims are a method claim (claim 77) and a computer readable medium claim (claim 80). Farber clearly teaches the claimed method and the claimed computer readable medium.

Claims 79 and 82;

These claims claim the same functional limitations that claim 76 claims. The difference being these claims are a method claim (claim 79) and a computer readable medium claim (claim 82). Farber clearly teaches the claimed method and the claimed computer readable medium.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 69, 71, 73, 75, 78 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber et al., U.S. Patent No. 5,819,284. Claim 69 adds to claim 68 the limitation "wherein the display device comprises a television". Farber discusses at

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column 1 lines 10-20 various display devices but does not explicitly mention a television. Televisions were well known when the invention was made, the examiner takes official notice of this fact, to be one of the many types of display devices that may be used as a computer monitor. Thus, it would have been obvious to one of ordinary skill in the art when the invention was made to use a television as the display device in Farber since it is readily available, thus reducing cost, and it provides the same function as Farber's display. Claims 71, 73, 75, 78 and 81 all add the limitation of a television as the display device to their parent claims. These claims would have been obvious for the same reasons given for claim 68.

Response to Arguments

10. Applicant's arguments with respect to claims 68-82 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2672

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks


Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


Jeffery A Brier
Primary Examiner
Art Unit 2672



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,803	03/20/2000	Paul A. Freiburger	IR-003-C2	6272

21912 7590 06/25/2003

VAN PELT & YILLP
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EXAMINER

BRIER, JEFFERY A

ART UNIT PAPER NUMBER

2672

DATE MAILED: 06/25/2003

17

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

✓

Office Action Summary	Application No. 09/528,803	Applicant(s) FREIBERGER ET AL.	
	Examiner Jeffery A. Brier	Art Unit 2672	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 May 2003.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 68-82 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 68-82 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) Interview Summary (PTO-413) Paper No(s). _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other:

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/16/03 has been entered.

Response to Amendment

2. The amendment filed on 05/16/03 has been entered. Claims 68, 70, 72, 74, 77, and 80 have been amended. Claims 68-82 are pending.

Response to Arguments

3. Applicants arguments concerning the rejections under 35 U.S.C. 102(e) and 103(a) filed on 05/16/03 have been considered but they are not persuasive.

Applicant arguments fail to consider that one embodiment of Farber teaches having content providers continuously connected to the content display system (130 and 101) in order for the content provider to control when new content is displayed by the content display system and has the personal computer or terminals or television directly connected to server 130, column 4 lines 8-11 and 29-31. Thus, Farber teaches the newly added feature of providing content data from the content providing system directly to the content display system as well as teaching the newly added feature of the

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content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data since the new content data sent from the server 130 or providers 150, 152, 154 indicates a timing, such as display new information now or soon. Therefore the rejections based upon 35 U.S.C. 102(e) are maintained.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 68-82 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly claimed limitation "wherein each associated content provider provides its content data directly to the display device or to the content display system" was not described in the originally filed specification. The content display system receives the content data from the content provider through a network and the content display system has the necessary instructions to receive content data and process the content data for eventual supply to the display device. There is no description how a simple display device will directly interface with the content provider and display the content

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data. There is no description how the network will allow a direct connection between the content provider 202 and the content display system 203. A network is connected of many parts and paths. Applicant did not describe how a single dedicated path will be established to allow the content provider to provide its content data directly to the display device or to the content display system.

Claim Rejections - 35 USC § 102

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

A person shall be entitled to a patent unless –

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

7. Claims 68-82 are rejected under 35 U.S.C. 102(e) as being anticipated by Farber et al., U.S. Patent No. 5,819,284.

An analysis of the claims follows.

Claim 68:

Farber teaches a method for engaging the peripheral attention (*during the screen saver mode of operation*) of a person in the vicinity of a display device (*column 2 lines 41-56*), comprising the steps of:

providing one (*depending upon the user's profile one set of content data may be sent from server 130 to the user's personal computer or terminal*) or more sets of

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content data to the display device or to a content display system (*the terminals and personal computer all have a display device and a content display system*) associated with the display device;

providing to the display device or to the content display system a set of instructions (*at column 4 lines 8-11 the provider sends new content data which is an instruction to display new information*) for enabling the display device to selectively display, in an unobtrusive manner (*screen saver mode does not obstruct normal use*) that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from a set of content data (*see figure 4*); and

auditing the display of sets of content data by the display device (In order float images 401-406 illustrated in figure 4 and described at column 6 line 40-63 the system needs to keep track of the images, thus, an auditing is performed commensurate in scope with the broadly claimed auditing);

wherein the one or more sets of content data are selected from a plurality of sets of content data (each type of content data such as weather has many different sets of data), each set being provided by an associated content provider (when there is one set of content data then the server 130 is the content provider and when there is more than one set of content data each set is from 150, 152, 154), wherein each associated content provider provides its content data directly to the display device or to the content display system (when there is one set of content data then server 130 is directly connected to a user's terminal or personal computer, column 4 lines 29-31, and when

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there is more one set of content data each provider 150, 152, 154 is directly connected to a user's terminal or personal computer after reading column 4 lines 8-11 and 29-31), and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing (the new content data sent from the server 130 or providers 150, 152, 154 indicates a timing, such as display new information now or soon) of the display of said image or images generated from the set of content data.

Claim 70:

This claim is a computer readable medium claim claiming the method of claim 68. This claim is rejected for the reason given for claim 68 and since a computer program makes Farber's system function and since computer programs are present in computer readable medium, also see claim 11 of Farber.

Claim 72:

This claim is computer readable medium claim similar to claim 70 and this claim is broader than claims 68 and 70 since auditing is not claimed. The two limitations present in claim 72 and not present in claim 70 are at lines 4 and 5 of claim 72. Farber teaches instructions for acquiring a set of content data from a content providing system since the terminals and personal computer need to have instructions on how to acquire new content data. Farber teaches instructions for detecting an idle period of predetermined duration because to determine when to enter the screen saver mode the

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personal computer and terminals need to know when the user has not interacted with the system for a predetermined period of time.

Claim 74:

This claim is similar to claim 68 with the exception that it is a system claim and since it claims selection by a user of one or more control options. For the system difference note Farber is a computer system. As for the selection by a user of one or more control options note the claim does not claim when the user selects the option, it just claims selection of one or more control option during the selective display of the image or images generated from the set of content data. In figure 2 Farber shows a user profile database which is formed by the user, see column 4 lines 42-62. Thus, the database is a user input apparatus that enables selection of one or more control options.

Claim 76:

Farber teaches a link control option that enables the user to establish a link with an information location, column 1 lines 35-40.

Claims 77 and 80;

These claims claim the same functional limitation that claim 74 claims. The difference being these claims are a method claim (claim 77) and a computer readable medium claim (claim 80). Thus, claim 77 is rejected for the reasons given for claim 74 and claim 80 is rejected for the reasons given for claim 74 and since a computer program makes

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Farber's system function and since computer programs are present in computer readable medium, also see claim 11 of Farber.

Claims 69, 71, 73, 75, 78 and 81:

Claim 69 add to claim 68 the limitation "wherein the display device comprises a television". Claims 71, 73, 75, 78 and 81 all add the same limitation to their respective parent claims. Farber discusses at column 2 line 52 using a television.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713).

Any response to this action should be mailed to:

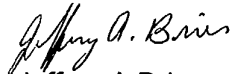
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or faxed to: (703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


Jeffery A Brier
Primary Examiner
Art Unit 2672



18E/No
Brett

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
FREIBERGER, et al

Examiner: Jeffery A. Brier

Serial No. 09/528,803

Art Unit: 2672

Filed: March 20, 2000

Docket No. INT1P869C2

October 23, 2003

Title: ATTENTION MANAGER
FOR OCCUPYING THE PERIPHERAL
ATTENTION OF A PERSON IN THE
VICINITY OF A DISPLAY DEVICE

RECEIVED

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Technology Center 2600

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop _____, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 23, 2003

Signed: Pat Tate
Pat Tate

AMENDMENT D

Mail Stop
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1540

Dear Sir:

This is in response to the Office Action mailed June 25, 2003. The following amendments and remarks are respectfully submitted.

Application Serial No. 09/528,803
Attorney Docket No. INT1P869C2

IN THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

68. (Currently amended) A method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

providing one or more sets of content data ~~to the display device or to a content display system associated with the display device~~ and located entirely in the same physical location as the display device;

~~providing to the display device or to the content display system a set of instructions for enabling the display device~~ content display system to selectively display, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from a set of content data; and

auditing the display of sets of content data by the ~~display device~~ content display system;

wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data directly to the display device or to the content display system independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content

data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data.

69. (Original) A method as in Claim 68, wherein the display device comprises a television.

70. (Currently amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for providing one or more sets of content data ~~to the display device or~~ to a content display system associated with the display device and located entirely in the same physical location as the display device;

instructions for providing ~~to the display device or~~ to the content display system a set of instructions for enabling the ~~display device~~ content display system to selectively display, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from a set of content data; and

instructions for auditing the display of sets of content data by the ~~display device~~ content display system;

wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data directly to the display device or to the content display system independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data.

71. (Original) A computer readable medium as in Claim 70, wherein the one or more computer programs enable display of an image or images on a display device comprising a television.

72. (Currently amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for acquiring a set of content data from a content providing system;

instructions for detecting an idle period of predetermined duration; and

instructions for selectively displaying on the display device, after detection of the idle period and in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from the set of content data;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data directly to the display device or to the to a content display system associated with the and located entirely in the same physical location as the display device independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data.

73. (Original) A computer readable medium as in Claim 72, wherein the one or more computer programs enable display of an image or images on a display device comprising a television

74. (Currently amended) A content display system for engaging the peripheral attention of a person in the vicinity of a display device located in the same physical location as the content display system, comprising:

data acquisition apparatus that enables acquisition of a set of content data;

display apparatus that effects selective display on the display device, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, of an image or images generated from the set of content data;

user input apparatus that enables selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

a system control device that controls aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data directly to the display device or to the content display system independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data.

75. (Original) A system as in Claim 74, wherein the display device comprises a television.

76. (Original) A system as in Claim 74, wherein:

a link control option enables the user to establish a link with an information location; and

the system control device establishes the link with the information location in response to selection of the link control option.

77. (Currently amended) A method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

acquiring a set of content data from a content providing system;

selectively displaying on the display device, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from the set of content data;

enabling selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

controlling aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data directly to the display device or to the to a content display system associated with the and located entirely in the same physical location as the display device independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data.

78. (Original) A method as in Claim 77, wherein the display device comprises a television.

79. (Original) A method as in Claim 77, wherein a link control option enables the user to establish a link with a information location, the step of controlling aspects of the

operation of the system further comprising the step of establishing the link with the information location in response to selection of the link control option.

80. (Currently amended) A computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

instructions for acquiring a set of content data from a content providing system;

instructions for selectively displaying on the display device, in an unobtrusive manner that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from the set of content data;

instructions for enabling selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

instructions for controlling aspects of the operation of the system in accordance with a selected control option;

wherein the set of content data is selected from a plurality of sets of content data, each set being provided by an associated content provider, wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data directly to the display device or to the to a content display system associated with the and located entirely in the same physical location as the display device independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data.

81. (Original) A computer readable medium as in Claim 80, wherein the one or more computer programs enable display of an image or images on a display device comprising a television.

82. (Original) A computer readable medium as in Claim 80, wherein a link control option enables the user to establish a link with an information location, the instructions for controlling aspects of the operation of the system further comprising instructions for establishing the link with the information location in response to selection of the link control.

83.-102. (Canceled).

REMARKS

Claims 68, 70, 72, 74, 77, and 80 have been amended to clarify the subject matter regarded as the invention. Claims 68-82 remain pending.

The Examiner has rejected claims 68-82 under 35 U.S.C. §112(1) and §102(e) based on Farber.

The amendments to the claims are believed to overcome the rejections under 35 U.S.C. §112(1).

The rejection under 35 U.S.C. §102(e) is respectfully traversed. With respect to claim 68, the claim has been amended to recite that the display device and content display system are in the same physical location and that each content provider system and that each content provider provides its content data “independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.” Farber teaches aggregating content from multiple content providers 150-154 at a single service node 120 located remote from the display devices 101 and connected to the display devices 101 via a network connection. Farber col. 2, line 56 – col. 3, line 10 & Figure 1. The Office Action suggests (pp. 5-6) that Farber teaches sending data directly from the content providers 150-154 to the user computer 101, citing Farber col. 4 lines 8-11 and 29-31, but the cited portions of Farber merely describe alternative ways to aggregate the content provided by providers 150-154 at the service node 120, which as noted is remote from the display devices associated with personal computers 101. In fact, Farber states clearly that such aggregation is “essential” to the teaching of the Farber patent, col. 4, lines 26-29. *See also* Farber, col. 4, lines 15-19 (arrangement taught by Farber “insulates

information providers from direct connection to user”). In summary, claim 68 recites sending content from providers to the content display system without first aggregating the content of multiple providers at a common node, while Farber teaches that such aggregation is essential. Therefore, claim 68 is believed to be allowable over Farber.

Claim 69 depends from claim 68 and is believed to be allowable for the same reasons described above.

Similarly to claim 68, claim 70 recites that “each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data to the content display system independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.” As such, claim 70 is believed to be allowable for the same reasons described above.

Claim 71 depends from claim 70 and is believed to be allowable for the same reasons described above.

Similarly to claim 68, claim 72 recites that “each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data to a content display system associated with the and located entirely in the same physical location as the display device independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.” As such, claim 72 is believed to be allowable for the same reasons described above.

Claim 73 depends from claim 72 and is believed to be allowable for the same reasons described above.

Similarly to claim 68, claim 74 recites that “each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data to the content display system independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.” As such, claim 74 is believed to be allowable for the same reasons described above.

Claims 75 and 76 depend from claim 74 and are believed to be allowable for the same reasons described above.

Similarly to claim 68, claim 77 recites that “each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data to a content display system associated with the and located entirely in the same physical location as the display device independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.” As such, claim 77 is believed to be allowable for the same reasons described above.

Claims 78 and 79 depend from claim 77 and are believed to be allowable for the same reasons described above.

Similarly to claim 68, claim 80 recites that “each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data to a content display system associated with the and located entirely in

the same physical location as the display device independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.” As such, claim 80 is believed to be allowable for the same reasons described above.

Claims 81 and 82 depend from claim 80 and are believed to be allowable for the same reasons described above.

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks. If at any time the Examiner believes that an interview would be helpful, please contact the undersigned.

Respectfully submitted,



William J. James
Registration No. 40,661
V 408-973-2592
F 408-973-2595

VAN PELT AND YI, LLP
10050 N. Foothill Blvd., Suite 200
Cupertino, CA 95014

Notice of Allowability

Application No.	Applicant(s)	
09/528,803	FREIBERGER ET AL.	
Examiner	Art Unit	
Jeffery A. Brier	2672	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. This communication is responsive to the amendment filed on 11/17/03.
- 2. The allowed claim(s) is/are 68-82 renumbered as 1-15.
- 3. The drawings filed on _____ are accepted by the Examiner.
- 4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____ .
 - 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
- 5. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) The translation of the foreign language provisional application has been received.
- 6. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

- 7. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- 8. CORRECTED DRAWINGS must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No. _____.
 - (b) including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

- 9. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 Notice of References Cited (PTO-892)
- 2 Notice of Informal Patent Application (PTO-152)
- 3 Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 4 Interview Summary (PTO-413), Paper No. _____ .
- 5 Information Disclosure Statements (PTO-1449), Paper No. _____ .
- 6 Examiner's Amendment/Comment
- 7 Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 8 Examiner's Statement of Reasons for Allowance
- 9 Other

Jeffery A. Brier
Primary Examiner
Art Unit: 2672

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

Newly cited Knee et al., U.S. Patent No. 5,589,892, teaches at column 45 line 60 to column 46 line 7 presenting to the user peripheral vision a data feed such as a sports ticker which receives some of its information from different content providers from the internet. This information is provided by aggregating it at a common physical location prior to transmission to the user.

Newly cited Gifford, U.S. Patent No. 5,724,424, teaches at column 4 line 44 to column 5 line 17 presenting at least one set of visual content data to a user on a display from a content provider among many content providers which are each at different locations (merchants). This information engages the user's main attention rather than the claimed peripheral attention.

The prior art of record fails to teach or suggest engaging the peripheral attention of a person in the vicinity of a display device by at least wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data to the content display system independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

Art Unit: 2672

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. The following changes to the drawings have been approved by the examiner and agreed upon by applicant during a telephone interview held on 1/08/04 with William James: the preliminary amendment proposed to change in figure 3B the descriptive label for instruction 312, however, the proposed change is not entirely correct, see page 30 lines 10-11, instruction 312 will have a descriptive label of: content display system scheduling instructions. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

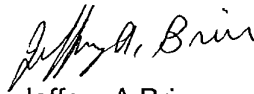
or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Art Unit: 2672

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



Jeffery A Brier
Primary Examiner
Art Unit 2672



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,577	03/16/2011	Paul A. FREIBERGER	2607.335REX1	1540

21912 7590 05/19/2011
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

EXAMINER

HUGHES, DEANDRA M

ART UNIT PAPER NUMBER

3992

MAIL DATE DELIVERY MODE

05/19/2011

PAPER

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patents and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

Date:

MAILED

MAY 19 2011

CENTRAL REEXAMINATION UNIT

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

REEXAMINATION CONTROL NO. : 95001577
PATENT NO. : 6778314
TECHNOLOGY CENTER : 3999
ART UNIT : 3992

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

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

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

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

PTOL-2070(Rev.07-04)

IL_DEFTS0008732

Transmittal of Communication to Third Party Requester Inter Partes Reexamination	Control No.	Patent Under Reexamination	
	95/001,577	FREIBERGER ET AL.	
	Examiner	Art Unit	
	Deandra M. Hughes	3992	

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

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

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

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

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

ORDER GRANTING/DENYING REQUEST FOR INTER PARTES REEXAMINATION	Control No.	Patent Under Reexamination	
	95/001,577	FREIBERGER ET AL.	
	Examiner	Art Unit	
	Deandra M. Hughes	3992	

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

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

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

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

An Office action is attached with this order.

An Office action will follow in due course.

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

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

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

ORDER GRANTING REQUEST FOR *INTER PARTES* REEXAMINATION

1. Substantial new questions of patentability ("SNQ") affecting claims 1-15 of USP 6,778,314 ("**314 patent**") have been proposed by the third party requester ("3PR") in the *inter partes* reexamination request filed Mar. 16, 2011 ("Request").

References Cited Proceeding

2. USP 5,748,190 to Kjorsvik filed Sep. 5, 1995. ("**Kjorsvik**")
3. USP 5,913,040 to Rakavy filed Aug. 22, 1995. ("**Rakavy**")
4. Salm, Walter. "Buying a Real Computer Monitor". Popular Electronics. October 1984. pp. 102-103, 132, and 134. ("**Salm**")

Prosecution History

5. The prosecution history of the application (09/528,803) which became the '**314 patent**' is presented below.

- On Mar. 20, 2000, claims 1-102 were presented for examination.
- On May 20, 2002, applicant elected the invention of claims 68-82 in response to a restriction requirement.
- On Jul. 30, 2002, claims 68-82 were rejected.
 - Claims 68-71 and 74-82 were rejected as being anticipated by Gayraud. (USP 5,436,637)
 - Claims 68-82 were rejected as being anticipated by **Rakavy**.
- On Jan. 6, 2003, applicant amended independent claims 68, 70, 72, 74, 77, and 80.
- On Feb. 14, 2003, claims 68-82 were finally rejected.
 - Claims 68, 70, 72, 74, 76-77, 79-80, and 82 were rejected as being anticipated by Farber.
 - Claims 69, 71, 73, 75, 78, and 81 were rejected as being obvious over Farber.

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- On May 16, 2003, applicant filed an RCE with amendments to independent claims 68, 70, 72, 74, 77, and 80.
- On Jun. 25, 2003, claims 68-82 were rejected as being anticipated by Farber.
- On Nov. 17, 2003, applicant amended independent claims 68, 70, 72, 74, 77, and 80.
- On Jan. 12, 2004, claims 68-82 were allowed. As reasons for allowance, the Examiner stated the following:

The prior art of record fails to teach or suggest engaging the peripheral attention of a person in the vicinity of a display device by at least wherein each associated content provider is located in a different physical location than at least one other content provider and each content provider provides its content data to the content display system independently of each other content provider and without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.

6. Based on the prosecution history of the application (09/528,803), the Examiner considers a teaching as to the following to form a the basis of an SNQ as to the '314 patent:

A system or method for engaging the peripheral attention of a person in the vicinity of a display device wherein

- *each associated content provider is located in a different physical location than at least one other content provider and*
- *each content provider provides its content data to the content display system independently of each other content provider and*
- *without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system.*

Decision

7. The Request indicates that 3PR considers:

- (1) Claims 1, 3, 5, 7, 9-10, 12-13, and 15 are anticipated by **Kjorsvik**.
- (2) Claims 2, 4, 6, 8, 11, and 14 are obvious over **Kjorsvik** in view of **Salm**.
- (3) Claims 1, 3, 5, 7, 9-10, 12-13, and 15 are anticipated by **Rakavy**.
- (4) Claims 2, 4, 6, 8, 11, and 14 are obvious over **Rakavy** in view of **Salm**.
- (5) Claims 1, 3, 5, 7, 9-10, 12-13, and 15 are obvious over **Rakavy** in view of **Kjorsvik**.

KJORSVIK: Proposed SNQs (1)-(2)

8. It is agreed that the consideration of **Kjorsvik**, alone or in combination, raises a SNQ as to claims 1-15 of the '314 patent. **Kjorsvik** discloses:

"...presentations may be obtained or provided to external systems and/or other outside sources over external communication lines. This enables the one administration module for the system to obtain or provide presentations directly from or to external sources, so as to eliminate the need for composing them within the system." (col. 4:19-25)

Kjorsvik was not before the Examiner during the prosecution of the '314 patent and there is a substantial likelihood that a reasonable examiner would consider this teaching of **Kjorsvik** important in deciding whether claims 1-15 of the '314 patent are patentable. Accordingly, **Kjorsvik** raises a SNQ as to claims 1-15, which question has not been decided in a previous examination of the '314 patent.

For these reasons, the claims will be reexamined over SNQs (1)-(2).

RAKAVY: Proposed SNQs (3)-(5)

9. It is agreed that the consideration of **Rakavy**, alone or in combination, raises a SNQ as to **claims 1-15** of the '**314 patent**.

Rakavy was before the Examiner during the prosecution of the '**314 patent** (09/528,803) and **claims 68-82** (now **claims 1-15**) were rejected as being anticipated by **Rakavy**. **Claims 68-82** were amended with the following limitation that removed the rejections.

wherein the one or more sets of content data are selected from a plurality of sets of content data, each set being provided by an associated content provider, and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control the duration, sequencing, and/or timing of the display of the set of content data.

3PR argues **Rakavy** is presented in a new light because **Rakavy** allegedly discloses this claim limitation at figure 5, col. 7:12-29, col. 10:66-11:30, and col. 12:19-40, which are portions of **Rakavy** not expressly discussed in the claim rejections. (Request, pg. 42, 2nd ¶) This argument, however, is not persuasive because these cited portions do not provide the teaching that forms the basis of an SNQ as to the '**314 patent** as set forth above.

Nonetheless, 3PR addresses the claim limitation which forms the basis of an SNQ in the Request at page 100, 1st box. It is agreed that the following disclosure of **Rakavy** that has not been considered in the prosecution of 09/528,803 provides a teaching which forms the basis of an SNQ as to the '**314 patent**.

"The Advertisement Feeder 250, is responsible for adding new Advertisements 50 to the User Preference and Advertisement

Art Unit: 3992

Database 230. Advertisements 50 preferably are provided from the Internet through the Internet Feeder 270, however, the Advertisements Feeder 250 is not dependent on the type of advertisement source and may receive Advertisements 50 from other sources, such as commercial on-line services, via other feeder mechanisms and other types of polite agents, as shown by references 271 and 272, respectively, in FIG. 4." (col.12:20-25)

There is a substantial likelihood that a reasonable examiner would consider these teachings of **Rakavy** important in deciding whether **claims 1-15** of the '**314 patent** are patentable. As such, **Rakavy** raises a SNQ as to **claims 1-15**, which question has not been decided in a previous examination of the '**314 patent**.

For these reasons, the claims will be reexamined over SNQs (3)-(5).

Conclusion

10. For the reasons set forth above, **claims 1-15** of the '**314 patent** will be reexamined.

11. All correspondence relating to this ex parte reexamination proceeding should be directed:

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

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

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

Registered users of EFS-Web may alternatively submit such correspondence via

Art Unit: 3992

the electronic filing system EFS-Web, at:

<https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>.

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:

/Deandra M. Hughes/
Primary Examiner, AU3992

Conferees:



MARK J. REINHART
CRU SPE-AU 3992

Receipt date: 03/16/2011

Equivalent of Form PTO/SB/08A (04-07)
 Approved for use through 09/30/2007. OMB 0651-0031
 U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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

Substitute for form 1449/PTO				Complete if Known 95/001,577	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>				Control Number	(to be assigned) <i>(Reexamination of U.S. Patent No. 6,788,314; Issued: September 7, 2004)</i>
				Filing Date	(herewith) Mar. 16, 2011
				Inventors	FREIBERGER <i>et al.</i>
				Art Unit	(to be assigned) 3992
				Examiner Name	(to be assigned) Deandra Hughes
Sheet	1	of	1	Attorney Docket Number	2607.335REX1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM/DD/YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	US1	5,748,190	05/05/1998	Kjorsvik	
	US2	5,913,040	06/15/1999	Rakavy <i>et al.</i>	
	US3				
	US4				
	US5				
	US6				
	US7				
	US8				
	US9				
	US10				
	US11				
	US12				
	US13				
	US14				
	US15				
	US16				
	US17				
	US18				
	US19				
	US20				

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM/DD/YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ Number ⁴ Kind Code ⁵ (if known)				
	FP1					
	FP2					
	FP3					
	FP4					
	FP5					
	FP6					
	FP7					
	FP8					
	FP9					

1335990_1.DOC

Examiner Signature	Date Considered
--------------------	-----------------

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. *Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.
 This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /D.H./

Receipt date: 03/16/2011

Equivalent of Form PTO/SB/08B (09-06)
 Approved for use through 03/31/2007. OMB 0851-0031
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Substitute for form 1449/PTO		Complete if Known 95/001,577	
FIRST SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Control Number	(to be assigned) (Reexamination of U.S. Patent No. 6,788,314; Issued: September 7, 2004)
		Filing Date	(herewith) Mar. 16, 2011
		Inventors	FREIBERGER <i>et al.</i>
		Art Unit	(to be assigned) 3992
		Examiner Name	(to be assigned) Deandra Hughes
Sheet	1	of	1
		Attorney Docket Number	2607.335REX1

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T ²
	NPL1	Salm, "Buying a Real computer Monitor," Popular Electronics, October 1984, pp. 102, 103, 132, and 134.	
	NPL2		
	NPL3		
	NPL4		
	NPL5		
	NPL6		
	NPL7		
	NPL8		
	NPL9		
	NPL10		

1335992_1.DOC

Examiner Signature	/Deandra Hughes/ (05/18/2011)	Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /D.H./



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Commissioner for Patents
United States Patents and Trademark Office
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THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

Date:

MAILED

MAY 19 2011

CENTRAL REEXAMINATION UNIT

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

REEXAMINATION CONTROL NO. : 95001577
PATENT NO. : 6778314
TECHNOLOGY CENTER : 3999
ART UNIT : 3992

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,577	03/16/2011	Paul A. FREIBERGER	2607.335REX1	1540
21912	7590	05/19/2011		
VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014			EXAMINER HUGHES, DEANDRA M	
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			05/19/2011	PAPER

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

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

**OFFICE ACTION IN INTER PARTES
REEXAMINATION**

Control No.	Patent Under Reexamination	
95/001,577	FREIBERGER ET AL.	
Examiner	Art Unit	
Deandra M. Hughes	3992	

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

Responsive to the communication(s) filed by:

Patent Owner on _____

Third Party(ies) on 16 March 2011

RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:

For Patent Owner's Response:

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

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

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

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

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

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

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

PART II. SUMMARY OF ACTION:

- 1a. Claims 1-15 are subject to reexamination.
- 1b. Claims _____ are not subject to reexamination.
2. Claims _____ have been canceled.
3. Claims _____ are confirmed. [Unamended patent claims]
4. Claims _____ are patentable. [Amended or new claims]
5. Claims 1-15 are rejected.
6. Claims _____ are objected to.
7. The drawings filed on _____ are acceptable are not acceptable.
8. The drawing correction request filed on _____ is: approved. disapproved.
9. Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has:
 been received. not been received. been filed in Application/Control No 95001577.
10. Other _____

INTER PARTES REEXAMINATION COMMUNICATION	Control No.	Patent Under Reexamination	
	95/001,577	FREIBERGER ET AL.	
	Examiner	Art Unit	
	Deandra M. Hughes	3992	

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

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

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

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

INTER PARTES REEXAMINATION NON-FINAL ACTION

1. This is the first non-final action in the inter partes reexamination of **claims 1-15** of USP 6,778,314 ("**314 patent**").

References Cited Proceeding

2. USP 5,748,190 to Kjorsvik filed Sep. 5, 1995. ("**Kjorsvik**")
3. USP 5,913,040 to Rakavy filed Aug. 22, 1995. ("**Rakavy**")
4. Salm, Walter. "Buying a Real Computer Monitor". Popular Electronics. October 1984. pp. 102-103, 132, and 134. ("**Salm**")

Proposed Rejections

5. Third party requester ("3PR") has proposed the following rejections.
 - (A) **Claims 1, 3, 5, 7, 9-10, 12-13, and 15** are anticipated by **Kjorsvik**.
 - (B) **Claims 2, 4, 6, 8, 11, and 14** are obvious over **Kjorsvik** in view of **Salm**.
 - (C) **Claims 1, 3, 5, 7, 9-10, 12-13, and 15** are anticipated by **Rakavy**.
 - (D) **Claims 2, 4, 6, 8, 11, and 14** are obvious over **Rakavy** in view of **Salm**.
 - (E) **Claims 1, 3, 5, 7, 9-10, 12-13, and 15** are obvious over **Rakavy** in view of **Kjorsvik**.

SUMMARY OF THIS ACTION

- 6. None of the proposed rejections (A)-(E) were adopted.
Reasons for Not Adopting Proposed Rejections over **Kjorsvik** pgs. 34-35
Reasons for Not Adopting Proposed Rejections over **Rakavy** pgs. 36-39

- 7. **Claims 1-15** are rejected over the following Examiner Initiated Rejections, which are grouped according to the respective independent claims.
 - Group (1): **Claims 1-2** pgs. 4-8
 - Group (2): **Claims 3-4** pgs. 9-13
 - Group (3): **Claims 5-6** pgs. 14-18
 - Group (4): **Claims 7-9** pgs. 19-23
 - Group (5): **Claims 10-12** pgs. 24-28
 - Group (6): **Claims 13-15** pgs. 29-33

GROUP (1): CLAIMS 1-2

8. As to these claims, 3PR has proposed the following rejections:
- (A) **Claim 1** is anticipated by **Kjorsvik**.
 - (B) **Claim 2** is obvious over **Kjorsvik** in view of **Salm**.
 - (C) **Claim 1** is anticipated by **Rakavy**.
 - (D) **Claim 2** is obvious over **Rakavy** in view of **Salm**.
 - (E) **Claim 1** is obvious over **Rakavy** in view of **Kjorsvik**.
9. None of these rejections are adopted for the reasons set forth on pages 34-39.
10. **Claims 1-2** are rejected over the following Examiner initiated rejections.
- **Claim 1** is obvious over **Kjorsvik**.
 - **Claim 2** is obvious over **Kjorsvik** in view of **Salm**.

EXAMINER INITIATED REJECTIONS OF CLAIMS 1-2

11. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik**.

As to **claim 1**, **Kjorsvik** discloses a method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

(The presentations are initiated for each PC in the network following a selected amount of time during which each PC has been in an 'on' state but has not been in use. col. 2:15-17. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- providing one or more sets of content data (*presentations; col. 4:19-25*)
 - to a content display system (*computer*)
 - associated with the display device (*monitor*) and
 - located entirely in the same physical location as the display device
(the monitor is located in the same physical location as the computer);
- providing to the content display system (*computer*) a set of instructions (*files; col. 3:49*) for
 - enabling the content display system (*computer*) to selectively display images (*presentation slides*) generated from a set of content data (*presentation*);
 - in an unobtrusive manner that does not distract a user of the display device (*monitor*) from a primary interaction with the display device (*monitor*),

(The presentations are initiated for each PC in the network following a selected amount of time during which the PC has been in an 'on' state but has not been in use. col. 2:13-16)

- auditing (*via the messenger modules*) the display of sets of content data (*presentations*) by the content display system (*computer*); wherein

(The messenger modules #22 communicate with the system database #24 on the network server #18 and provide a certain amount of local control over the presentation at is associated personal computer. figure 2 and col. 2:45-48)

- the one or more sets of content data (*presentations*) are selected from a plurality of sets of content data,

(Administration module #26 and database #24 on server #18 are responsible for selecting particular slide presentations for the individual PCs in the network and scheduling those presentations in a particular sequence. col.2:62-67)

- each set being provided by an associated content provider (other network servers), wherein

(Administration module #26 also has the capability of communicating with external sources, including other network servers with databases having presentation information, as well as other outside sources of data and images. col. 2:58-62)

- each associated content provider (other network server) is located in a different physical location than at least one other content provider (another network server) and each content provider (network server) provides its content data (presentation) to the content display system (computer) independently of each other content provider and

- (Presentations may be obtained from external systems or other outside sources over external communication lines. This enables the one administration module for the system to obtain presentations directly from external sources, so as to eliminate the need for composing them within the system. col.4:20-25)

First, **Kjorsvik** does not disclose the limitation “without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system” because **Kjorsvik** discloses the presentations being stored in a system database located on a network server prior to being provided to the individual network PCs for display on the computer screens. (col. 2:10-15) As such, **Kjorsvik** discloses the content data (presentations) are aggregated at a common physical location (system database on the network server) prior to being provided to the content display system (individual network PC).

Kjorsvik teaches, however, that administration module #26 may communicate directly with external sources, which include other network servers with databases having presentation information. (col.2:58-62) In addition, **Kjorsvik** teaches obtaining

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presentations directly from external systems eliminates the need to compose the presentation within the system. (col.4:20-25) Consequently, it would have been obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to select presentations directly from external sources, such as other network servers, for the advantage of eliminating the need to compose the presentation within the system. As such, selecting the presentation directly from an external network server database eliminates the need to aggregate the presentation at the network server prior to being provided to the individual PC because the presentation would be coming directly from the external network server.

Second, **Kjorsvik** does not disclose "*for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data*" because **Kjorsvik** discloses the duration, sequencing, and timing of the content data (presentations) is controlled by either the administration module #26 (col. 3:41-43, col.4:17-18) or the user of the individual PC. (col. 5:24-32)

Kjorsvik teaches, however, that obtaining presentations directly from external systems eliminates the need to compose the presentations within the system. (col.4:20-25) Since the device of **Kjorsvik** may obtain presentations that have been composed on external systems, it would be obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to permit the device to obtain scheduling instructions from these external systems to control any one of the duration, sequencing,

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or timing of the provided presentation for the advantage of permitting the content provider the added flexibility of staging its provided presentation on the individual user's computer.

12. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik** in view of **Salm**.

Claim 2 is dependent upon **claim 1**. As such, the claim rejection above addressing each limitation of **claim 1** is incorporated here. **Kjorsvik** does not disclose the display device comprises a television. **Salm** teaches, however, the family TV set as a computer monitor. (*entire article*) Consequently, it would have been obvious to one of ordinary skill in the art (e.g., a network engineer) to modify the individual PCs of **Kjorsvik** with TV sets as display devices for the advantage of the use of cheap and readily available display devices.

GROUP (2): CLAIMS 3-4

13. As to these claims, 3PR has proposed the following rejections:
- (A) **Claim 3** is anticipated by **Kjorsvik**.
 - (B) **Claim 4** is obvious over **Kjorsvik** in view of **Salm**.
 - (C) **Claim 3** is anticipated by **Rakavy**.
 - (D) **Claim 4** is obvious over **Rakavy** in view of **Salm**.
 - (E) **Claim 3** is obvious over **Rakavy** in view of **Kjorsvik**.
14. None of these rejections are adopted for the reasons set forth on pages 34-39.
15. **Claims 3-4** are rejected over the following Examiner initiated rejections.
- **Claim 3** is obvious over **Kjorsvik**.
 - **Claim 4** is obvious over **Kjorsvik** in view of **Salm**.

EXAMINER INITIATED REJECTIONS OF CLAIMS 3-4

16. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik**.

Kjorsvik discloses a computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

(The presentations are initiated for each PC in the network following a selected amount of time during which each PC has been in an 'on' state but has not been in use. col. 2:15-17. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- instructions for providing one or more sets of content data (*presentations; col. 4:19-25*)
- to a content display system (*computer*)
 - associated with the display device (*monitor*) and
 - located entirely in the same physical location as the display device;

(the monitor is located in the same physical location as the computer);
- instructions for providing to the content display system (*computer*) a set of instructions (*files; col.3:49*) for
 - enabling the content display system (*computer*) to selectively display in an unobtrusive manner that does not distract a user of the display device (*monitor*) from a primary interaction with the display device (*monitor*) images (*presentation slides*) generated from a set of content data (*presentation*); and

(The presentations are initiated for each PC in the network following a selected amount of time during which the PC has been in an 'on' state but has not been in use. col. 2:13-16)
- instructions for auditing (*via the messenger modules*) the display of sets of content data (*presentations*) by the content display system (*computer*); wherein

(The messenger modules #22 communicate with the system database #24 on the network server #18 and provide a certain amount of local control over the presentation at is associated personal computer. figure 2 and col. 2:45-48)
- the one or more sets of content data (*presentations*) are selected from a plurality of sets of content data,

(Administration module #26 and database #24 on server #18 are responsible for selecting particular slide presentations for the individual PCs in the network and scheduling those presentations in a particular sequence. col.2:62-67)

- each set being provided by an associated content provider (other network servers), wherein

(Administration module #26 also has the capability of communicating with external sources, including other network servers with databases having presentation information, as well as other outside sources of data and images. col. 2:58-62)

- each associated content provider (other network server) is located in a different physical location than at least one other content provider (another network server) and each content provider (other network server) provides its content data (presentation) to the content display system (computer) independently of each other content provider and

(Presentations may be obtained from external systems or other outside sources over external communication lines. This enables the one administration module for the system to obtain presentations directly from external sources, so as to eliminate the need for composing them within the system. col.4:20-25)

First, **Kjorsvik** does not disclose the limitation “without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system” because **Kjorsvik** discloses the presentations being stored in a system database located on a network server prior to being provided to the individual network PCs for display on the computer screens. (col. 2:10-15) As such, **Kjorsvik** discloses the content data (presentations) are aggregated at a common physical location (system database on the network server) prior to being provided to the content display system (individual network PC).

Kjorsvik teaches, however, that administration module #26 may communicate directly with external sources, which include other network servers with databases having presentation information. (col.2:58-62) In addition, **Kjorsvik** teaches obtaining presentations directly from external systems eliminates the need to compose the

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presentation within the system. (col.4:20-25) Consequently, it would have been obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to select presentations directly from external sources, such as other network servers, for the advantage of eliminating the need to compose the presentation within the system. As such, selecting the presentation directly from an external network server database eliminates the need to aggregate the presentation at the network server prior to being provided to the individual PC because the presentation would be coming directly from the external network server.

Second, **Kjorsvik** does not disclose “for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data” because **Kjorsvik** discloses the duration, sequencing, and timing of the content data (presentations) is controlled by either the administration module #26 (col. 3:41-43, col.4:17-18) or the user of the individual PC. (col. 5:24-32)

Kjorsvik teaches, however, that obtaining presentations directly from external systems eliminates the need to compose the presentations within the system. (col.4:20-25) Since the device of **Kjorsvik** may obtain presentations that have been composed on external systems, it would be obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to permit the device to obtain scheduling instructions from these external systems to control any one of the duration, sequencing, or timing of the provided presentation for the advantage of permitting the content

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provider the added flexibility of staging its provided presentation on the individual user's computer.

17. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik** in view of **Salm**.

Claim 4 is dependent upon **claim 3**. As such, the claim rejection above addressing each limitation of **claim 3** is incorporated here. **Kjorsvik** does not disclose the display device comprises a television. **Salm** teaches, however, the family TV set as a computer monitor. (*entire article*) Consequently, it would have been obvious to one of ordinary skill in the art (e.g., a network engineer) to modify the individual PCs of **Kjorsvik** with televisions as display devices for the advantage cheap and readily available display devices.

GROUP (3): CLAIMS 5-6

18. As to these claims, 3PR has proposed the following rejections:
- (A) **Claim 5** is anticipated by **Kjorsvik**.
 - (B) **Claim 6** is obvious over **Kjorsvik** in view of **Salm**.
 - (C) **Claim 5** is anticipated by **Rakavy**.
 - (D) **Claim 6** is obvious over **Rakavy** in view of **Salm**.
 - (E) **Claim 5** is obvious over **Rakavy** in view of **Kjorsvik**.
19. None of these rejections are adopted for the reasons set forth on pages 34-39.
20. **Claims 5-6** are rejected over the following Examiner initiated rejections.
- **Claim 5** is obvious over **Kjorsvik**.
 - **Claim 6** is obvious over **Kjorsvik** in view of **Salm**.

EXAMINER INITIATED REJECTIONS OF CLAIMS 5-6

21. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik**.

Kjorsvik discloses a computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

(The presentations are initiated for each PC in the network following a selected amount of time during which each PC has been in an 'on' state but has not been in use. col. 2:15-17. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- instructions for acquiring a set of content data (*presentations; col. 4:19-25*)
- from a content providing system (*database #24 on network server; col.2:63-65*);
- instructions for detecting an idle period of predetermined duration; and

*(Since the system of **Kjorsvik** initiates presentations for the PC during which the PC has been in an 'on' state but not in use, the system must necessarily provide instructions for detecting an idle period of predetermined duration in order to initiate the presentation. As such, this claim limitation is inherent in the device of **Kjorsvik**. see col. 2:15-17)*

- instructions for selectively displaying on the display device (*monitor*) after detection of the idle period (*col. 2:15-17*) and in an unobtrusive manner that does not distract a user of the display device from a primary interaction with the display device (*monitor*)

(Each user in the system, i.e. each network PC, will have its own unique schedule of presentations, including a particular sequence of different presentations and a specific time of nonuse required before a presentation begins. This scheduling of presentations is established through the administration module and stored in the system database #24. col. 4:9-16. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- wherein the set of content data (*presentations*) is selected from a plurality of sets of content data,

(Administration module #26 and database #24 on server #18 are responsible for selecting particular slide presentations for the individual PCs in the network and scheduling those presentations in a particular sequence. col.2:62-67)

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- each set being provided by an associated content provider (other network servers), wherein

(Administration module #26 also has the capability of communicating with external sources, including other network servers with databases having presentation information, as well as other outside sources of data and images. col. 2:58-62)

- each associated content provider (other network server) is located in a different physical location than at least one other content provider (another network server) and each content provider (other network server) provides its content data (presentation) to a content display system (computer) associated with the and located entirely in the same physical location as the display device (monitor) independently of each other content provider and

(Presentations may be obtained from external systems or other outside sources over external communication lines. This enables the one administration module for the system to obtain presentations directly from external sources, so as to eliminate the need for composing them within the system. col.4:20-25)

First, **Kjorsvik** does not disclose the limitation "without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system" because **Kjorsvik** discloses the presentations being stored in a system database located on a network server prior to being provided to the individual network PCs for display on the computer screens. (col. 2:10-15) As such, **Kjorsvik** discloses the content data (presentations) are aggregated at a common physical location (system database on the network server) prior to being provided to the content display system (individual network PC).

Kjorsvik teaches, however, that administration module #26 may communicate directly with external sources, which include other network servers with databases having presentation information. (col.2:58-62) In addition, **Kjorsvik** teaches obtaining presentations directly from external systems eliminates the need to compose the

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presentation within the system. (col.4:20-25) Consequently, it would have been obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to select presentations directly from external sources, such as other network servers, for the advantage of eliminating the need to compose the presentation within the system. As such, selecting the presentation directly from an external network server database eliminates the need to aggregate the presentation at the network server prior to being provided to the individual PC because the presentation would be coming directly from the external network server.

Second, **Kjorsvik** does not disclose “for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data” because **Kjorsvik** discloses the duration, sequencing, and timing of the content data (presentations) is controlled by either the administration module #26 (col. 3:41-43, col.4:17-18) or the user of the individual PC. (col. 5:24-32)

Kjorsvik teaches, however, that obtaining presentations directly from external systems eliminates the need to compose the presentations within the system. (col.4:20-25) Since the device of **Kjorsvik** may obtain presentations that have been composed on external systems, it would be obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to permit the device to obtain scheduling instructions from these external systems to control any one of the duration, sequencing, or timing of the provided presentation for the advantage of permitting the content

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provider the added flexibility of staging its provided presentation on the individual user's computer.

22. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik** in view of **Salm**.

Claim 6 is dependent upon **claim 5**. As such, the claim rejection above addressing each limitation of **claim 5** is incorporated here. **Kjorsvik** does not disclose the display device comprises a television. **Salm** teaches, however, the family TV set as a computer monitor. (*entire article*) Consequently, it would have been obvious to one of ordinary skill in the art (e.g., a network engineer) to modify the individual PCs of **Kjorsvik** with televisions as display devices for the advantage cheap and readily available display devices.

GROUP (4): CLAIMS 7-9

23. As to these claims, 3PR has proposed the following rejections:
- (A) **Claims 7 and 9** are anticipated by **Kjorsvik**.
 - (B) **Claim 8** is obvious over **Kjorsvik** in view of **Salm**.
 - (C) **Claims 7 and 9 are** is anticipated by **Rakavy**.
 - (D) **Claim 8** is obvious over **Rakavy** in view of **Salm**.
 - (E) **Claims 7 and 9** are obvious over **Rakavy** in view of **Kjorsvik**.
24. None of these rejections are adopted for the reasons set forth on pages.34-39.
25. **Claims 7-9** are rejected over the following Examiner initiated rejections.
- **Claims 7 and 9** are obvious over **Kjorsvik**.
 - **Claim 8** is obvious over **Kjorsvik** in view of **Salm**.

EXAMINER INITIATED REJECTIONS OF CLAIMS 7-9

26. **Claims 7 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik**.

As to **claim 7**, **Kjorsvik** discloses a content display system for engaging the peripheral attention of a person in the vicinity of a display device (*monitor*) located in the same physical location as the content display system (*computer*), comprising:

(The presentations are initiated for each PC in the network following a selected amount of time during which each PC has been in an 'on' state but has not been in use. col. 2:15-17. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20. The monitor of the computer is located in the same physical location)

- data acquisition apparatus (*administration module #26*) that enables acquisition of a set of content data (*presentations*);

(Presentations may be obtained from external systems or other outside sources over external communication lines. This enables the administration module for the system to obtain presentations directly from external sources, so as to eliminate the need for composing them within the system. col.4:20-25)

- display apparatus (*messenger module*) that effects selective display on the display device (*monitor*), in an unobtrusive manner that does not distract a user of the display device from a primary interaction with the display device (*monitor*);

(The messenger module is responsible for the control of the presentation. Each slide is show for a preselected period of time and then if the PC is still not being used, the next slide in the presentation sequence is shown, again under the control the messenger module. col.5:13-17)

- user input apparatus (*designated key on the keyboard*) that enables selection by a user of one or more control options during the selective display of the image or images generated from the set of content data; and

(By pressing a designated key on the PC keyboard (or the correct mouse button), when a presentation is in progress, a control menu will appear on the user's screen over the current slide. This menu gives the user various possibilities by which to control the presentation. It is possible, for example, to reverse the presentation slide by slide, or the presentation may be fast-forwarded, slide by slide. col.5:25-33)

- a system control device (*eject button*) that controls aspects of the operation of the system in accordance with a selected control option;

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(By pushing an eject button or other designated key, the user will also be able to go to another selected presentation among the several available to it through the administration module. The newly selected presentation will remain the "current" presentation until the broadcast schedule previously established in the administration module for that PC indicates that another presentation is due. col.5:33-38)

- wherein the set of content data (*presentations*) is selected from a plurality of sets of content data, each set being provided by an associated content provider (*other network*),

(Administration module #26 and database #24 on server #18 are responsible for selecting particular slide presentations for the individual PCs in the network and scheduling those presentations in a particular sequence. col.2:62-67)

- wherein each associated content provider (*other network server*) is located in a different physical location than at least one other content provider (*another network server*) and each content provider (*other network server*) provides its content data (*presentation*) to the content display system (*computer*) independently of each other content provider and

(Presentations may be obtained from external systems or other outside sources over external communication lines. This enables the one administration module for the system to obtain presentations directly from external sources, so as to eliminate the need for composing them within the system. col.4:20-25)

First, **Kjorsvik** does not disclose the limitation "without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system" because **Kjorsvik** discloses the presentations being stored in a system database located on a network server prior to being provided to the individual network PCs for display on the computer screens. (col. 2:10-15) As such, **Kjorsvik** discloses the content data (*presentations*) are aggregated at a common physical location (system database on the network server) prior to being provided to the content display system (individual network PC).

Kjorsvik teaches, however, that administration module #26 may communicate directly with external sources, which include other network servers with databases

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having presentation information. (col.2:58-62) In addition, **Kjorsvik** teaches obtaining presentations directly from external systems eliminates the need to compose the presentation within the system. (col.4:20-25) Consequently, it would have been obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to select presentations directly from external sources, such as other network servers, for the advantage of eliminating the need to compose the presentation within the system. As such, selecting the presentation directly from an external network server database eliminates the need to aggregate the presentation at the network server prior to being provided to the individual PC because the presentation would be coming directly from the external network server.

Second, **Kjorsvik** does not disclose "*for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data*" because **Kjorsvik** discloses the duration, sequencing, and timing of the content data (presentations) is controlled by either the administration module #26 (col. 3:41-43, col.4:17-18) or the user of the individual PC. (col. 5:24-32)

Kjorsvik teaches, however, that obtaining presentations directly from external systems eliminates the need to compose the presentations within the system. (col.4:20-25) Since the device of **Kjorsvik** may obtain presentations that have been composed on external systems, it would be obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to permit the device to obtain scheduling

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instructions from these external systems to control any one of the duration, sequencing, or timing of the provided presentation for the advantage of permitting the content provider the added flexibility of staging its provided presentation on the individual user's computer.

As to **claim 9**, **Kjorsvik** discloses a link control option (control menu; col. 5:27) enables the user to establish a link with an information location and the system control device (eject button) establishes the link with the information location in response to selection of the link control option (selecting an option on the control menu to go to another presentation).

(By pushing the eject button or other designated key on the PC keyboard, or correct mouse button, when a presentation is in progress, a control menu will appear on the user's screen over the current slide. This menu gives the user various possibilities by which to control the presentation. col. 5:25-32)

27. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik** in view of **Salm**.

Claim 8 is dependent upon **claim 7**. As such, the claim rejection above addressing each limitation of **claim 7** is incorporated here. **Kjorsvik** does not disclose the display device comprises a television. **Salm** teaches, however, the family TV set as a computer monitor. (entire article) Consequently, it would have been obvious to one of ordinary skill in the art (e.g., a network engineer) to modify the individual PCs of **Kjorsvik** with televisions as display devices for the advantage cheap and readily available display devices.

GROUP (5): CLAIMS 10-12

28. As to these claims, 3PR has proposed the following rejections:
- (A) Claims 10 and 12 are anticipated by **Kjorsvik**.
 - (B) Claim 11 is obvious over **Kjorsvik** in view of **Salm**.
 - (C) Claims 10 and 12 are is anticipated by **Rakavy**.
 - (D) Claim 11 is obvious over **Rakavy** in view of **Salm**.
 - (E) Claims 10 and 12 are obvious over **Rakavy** in view of **Kjorsvik**.
29. None of these rejections are adopted for the reasons set forth on pages 34-39.
30. Claims 10-12 are rejected over the following Examiner initiated rejections.
- Claims 10 and 12 are obvious over **Kjorsvik**.
 - Claim 11 is obvious over **Kjorsvik** in view of **Salm**.

EXAMINER INITIATED REJECTIONS OF CLAIMS 10-12

31. **Claims 10 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik**.

Kjorsvik discloses a method for engaging the peripheral attention of a person in the vicinity of a display device, comprising the steps of:

(The presentations are initiated for each PC in the network following a selected amount of time during which each PC has been in an 'on' state but has not been in use. col. 2:15-17. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- acquiring a set of content data (*presentations; col. 4:19-25*)
- from a content providing system (*database #24 on network server; col.2:63-65*);
- selectively displaying on the display device, in an unobtrusive manner that does not distract a user of the display device from a primary interaction with the display device;

(Each user in the system, i.e. each network PC, will have its own unique schedule of presentations, including a particular sequence of different presentations and a specific time of nonuse required before a presentation begins. This scheduling of presentations is established through the administration module and stored in the system database #24. col. 4:9-16. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- enabling selection by a user (*pressing a designated key*) of one or more control options (*on control menu*) during the selective display of the images (*presentation slides*) generated from the set of content data (*presentation*); and controlling aspects of the operation of the system in accordance with a selected control option;

(By pressing a designated key on the PC keyboard or the correct mouse button, when a presentation is in progress, a control menu will appear on the user's screen over the current slide. This menu gives the user various possibilities by which to control the presentation. It is possible, for example, to reverse the presentation slide by slide, or the presentation may be fast-forwarded, slide by slide. col.5:25-33)

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- wherein the set of content data (*presentation*) is selected from a plurality of sets of content data, each set being provided by an associated content provider (*other network server*),
- wherein each associated content provider (*other network server*) is located in a different physical location than at least one other content provider (*another network server*) and each content provider (*other network server*) provides its content data (*presentation*) to a content display system (*computer*) associated with the and located entirely in the same physical location as the display device (*monitor*) independently of each other content provider and

(Presentations may be obtained from external systems or other outside sources over external communication lines. This enables the one administration module for the system to obtain presentations directly from external sources, so as to eliminate the need for composing them within the system. col.4:20-25)

First, **Kjorsvik** does not disclose the limitation “*without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system*” because **Kjorsvik** discloses the presentations being stored in a system database located on a network server prior to being provided to the individual network PCs for display on the computer screens. (*col. 2:10-15*) As such, **Kjorsvik** discloses the content data (*presentations*) are aggregated at a common physical location (*system database on the network server*) prior to being provided to the content display system (*individual network PC*).

Kjorsvik teaches, however, that administration module #26 may communicate directly with external sources, which include other network servers with databases having presentation information. (*col.2:58-62*) In addition, **Kjorsvik** teaches obtaining presentations directly from external systems eliminates the need to compose the presentation within the system. (*col.4:20-25*) Consequently, it would have been obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of

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Kjorsvik to select presentations directly from external sources, such as other network servers, for the advantage of eliminating the need to compose the presentation within the system. As such, selecting the presentation directly from an external network server database eliminates the need to aggregate the presentation at the network server prior to being provided to the individual PC because the presentation would be coming directly from the external network server.

Second, **Kjorsvik** does not disclose "*for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data*" because **Kjorsvik** discloses the duration, sequencing, and timing of the content data (*presentations*) is controlled by either the administration module #26 (*col. 3:41-43, col.4:17-18*) or the user of the individual PC. (*col. 5:24-32*)

Kjorsvik teaches, however, that obtaining presentations directly from external systems eliminates the need to compose the presentations within the system. (*col.4:20-25*) Since the device of **Kjorsvik** may obtain presentations that have been composed on external systems, it would be obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to permit the device to obtain scheduling instructions from these external systems to control any one of the duration, sequencing, or timing of the provided presentation for the advantage of permitting the content provider the added flexibility of staging its provided presentation on the individual user's computer.

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As to **claim 12**, **Kjorsvik** discloses a link control option (control menu; col. 5:27) enables the user to establish a link with an information location and the system control device (eject button) establishes the link with the information location in response to selection of the link control option (selecting an option on the control menu to go to another presentation).

(By pushing the eject button or other designated key on the PC keyboard, or correct mouse button, when a presentation is in progress, a control menu will appear on the user's screen over the current slide. This menu gives the user various possibilities by which to control the presentation. col. 5:25-32)

32. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik** in view of **Salm**.

Claim 11 is dependent upon **claim 10**. As such, the claim rejection above addressing each limitation of **claim 10** is incorporated here. **Kjorsvik** does not disclose the display device comprises a television. **Salm** teaches, however, the family TV set as a computer monitor. (entire article) Consequently, it would have been obvious to one of ordinary skill in the art (e.g., a network engineer) to modify the individual PCs of **Kjorsvik** with televisions as display devices for the advantage cheap and readily available display devices.

GROUP (6): CLAIMS 13-15

33. As to these claims, 3PR has proposed the following rejections:
- (A) **Claims 13 and 15** are anticipated by **Kjorsvik**.
 - (B) **Claim 14** is obvious over **Kjorsvik** in view of **Salm**.
 - (C) **Claims 13 and 15 are** is anticipated by **Rakavy**.
 - (D) **Claim 14** is obvious over **Rakavy** in view of **Salm**.
 - (E) **Claims 13 and 15** are obvious over **Rakavy** in view of **Kjorsvik**.
34. None of these rejections are adopted for the reasons set forth on pages 34-39.
35. **Claims 13-15** are rejected over the following Examiner initiated rejections.
- **Claims 13 and 15** are obvious over **Kjorsvik**.
 - **Claim 14** is obvious over **Kjorsvik** in view of **Salm**.

EXAMINER INITIATED REJECTIONS OF CLAIMS 13-15

36. **Claims 13 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik**.

Kjorsvik discloses a computer readable medium encoded with one or more computer programs for enabling engagement of the peripheral attention of a person in the vicinity of a display device, comprising:

(The presentations are initiated for each PC in the network following a selected amount of time during which each PC has been in an 'on' state but has not been in use. col. 2:15-17. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- instructions for acquiring a set of content data (*presentations; col. 4:19-25*)
- from a content providing system (*database #24 on network server; col.2:63-65*);
- instructions for selectively displaying on the display device (*monitor*), in an unobtrusive manner that does not distract a user of the display device (*monitor*) from a primary interaction with the display device (*monitor*);

(Each user in the system, i.e. each network PC, will have its own unique schedule of presentations, including a particular sequence of different presentations and a specific time of nonuse required before a presentation begins. This scheduling of presentations is established through the administration module and stored in the system database #24. col. 4:9-16. These presentations in effect replace the conventional screen saver, but in addition, provide information in visual form which is intended to be beneficial to the user of the PC. col. 2:17-20)

- instructions for enabling selection by a user (*pressing a designated key*) of one or more control options (*on control menu*) during the selective display of the images (*presentation slides*) generated from the set of content data (*presentation*); and instructions for controlling aspects of the operation of the system in accordance with a selected control option;

(By pressing a designated key on the PC keyboard or the correct mouse button, when a presentation is in progress, a control menu will appear on the user's screen over the current slide. This menu gives the user various possibilities by which to control the presentation. It is possible, for example, to reverse the presentation slide by slide, or the presentation may be fast-forwarded, slide by slide. col.5:25-33)

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- wherein the set of content data (*presentation*) is selected from a plurality of sets of content data (*presentations*), each set being provided by an associated content provider (*other network server*),
- wherein each associated content provider (*other network server*) is located in a different physical location than at least one other content provider (*another network server*) and each content provider (*network server*) provides its content data (*presentation*) to a content display system (*computer*) associated with the and located entirely in the same physical location as the display device (*monitor*) independently of each other content provider and

(Presentations may be obtained from external systems or other outside sources over external communication lines. This enables the one administration module for the system to obtain presentations directly from external sources, so as to eliminate the need for composing them within the system. col.4:20-25)

First, **Kjorsvik** does not disclose the limitation “*without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system*” because **Kjorsvik** discloses the presentations being stored in a system database located on a network server prior to being provided to the individual network PCs for display on the computer screens. (*col. 2:10-15*) As such, **Kjorsvik** discloses the content data (*presentations*) are aggregated at a common physical location (*system database on the network server*) prior to being provided to the content display system (*individual network PC*).

Kjorsvik teaches, however, that administration module #26 may communicate directly with external sources, which include other network servers with databases having presentation information. (*col.2:58-62*) In addition, **Kjorsvik** teaches obtaining presentations directly from external systems eliminates the need to compose the presentation within the system. (*col.4:20-25*) Consequently, it would have been obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of

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Kjorsvik to select presentations directly from external sources, such as other network servers, for the advantage of eliminating the need to compose the presentation within the system. As such, selecting the presentation directly from an external network server database eliminates the need to aggregate the presentation at the network server prior to being provided to the individual PC because the presentation would be coming directly from the external network server.

Second, **Kjorsvik** does not disclose "*for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data*" because **Kjorsvik** discloses the duration, sequencing, and timing of the content data (*presentations*) is controlled by either the administration module #26 (*col. 3:41-43, col.4:17-18*) or the user of the individual PC. (*col. 5:24-32*)

Kjorsvik teaches, however, that obtaining presentations directly from external systems eliminates the need to compose the presentations within the system. (*col.4:20-25*) Since the device of **Kjorsvik** may obtain presentations that have been composed on external systems, it would be obvious to one of ordinary skill in the art (e.g. a network engineer) to modify the system of **Kjorsvik** to permit the device to obtain scheduling instructions from these external systems to control any one of the duration, sequencing, or timing of the provided presentation for the advantage of permitting the content provider the added flexibility of staging its provided presentation on the individual user's computer.

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As to **claim 15**, **Kjorsvik** discloses a link control option (*control menu; col. 5:27*) enables the user to establish a link with an information location and the system control device (*eject button*) establishes the link with the information location in response to selection of the link control option (*selecting an option on the control menu to go to another presentation*).

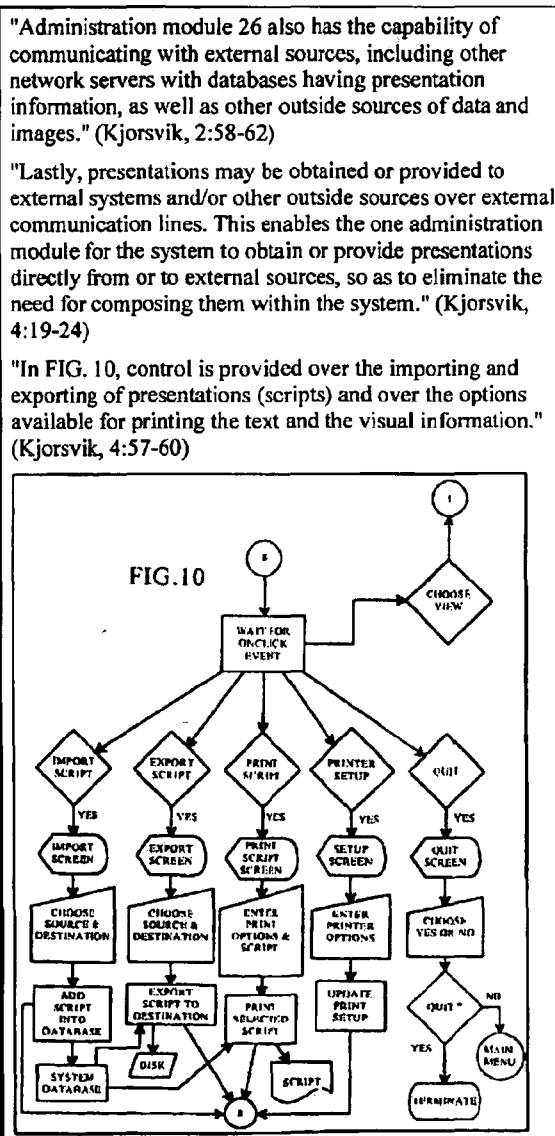
(By pushing the eject button or other designated key on the PC keyboard, or correct mouse button, when a presentation is in progress, a control menu will appear on the user's screen over the current slide. This menu gives the user various possibilities by which to control the presentation. col. 5:25-32)

37. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kjorsvik** in view of **Salm**.

Claim 14 is dependent upon **claim 13**. As such, the claim rejection above addressing each limitation of **claim 13** is incorporated here. **Kjorsvik** does not disclose the display device comprises a television. **Salm** teaches, however, the family TV set as a computer monitor. (*entire article*) Consequently, it would have been obvious to one of ordinary skill in the art (e.g., a network engineer) to modify the individual PCs of **Kjorsvik** with televisions as display devices for the advantage cheap and readily available display devices.

**REASONS FOR NOT ADOPTING
PROPOSED REJECTIONS (1)-(2) OVER KJORSVIK**

38. First, **Kjorsvik** does not disclose the limitation "without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system". 3PR, however, argues this limitation is anticipated at col. 2:58-62, col. 4:19-24, and col. 4:57-60. (Request, pgs. 59-60, 64-65, 69-70, 75-76, 83, and 91)



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Kjorsvik discloses the presentations being stored in a system database located on a network server prior to being provided to the individual network PCs for display on the computer screens. (col. 2:10-15) As such, **Kjorsvik** discloses the content data (presentations) are aggregated at a common physical location (system database on the network server) prior to being provided to the content display system (individual network PC). Consequently, **Kjorsvik** does not anticipate this limitation at col. 2:58-62, col. 4:19-24, and col. 4:57-60. Further, 3PR does not rely on a secondary reference to teach this limitation because 3PR alleges this limitation is anticipated by **Kjorsvik**. For at least these reasons, proposed rejections (1)-(2) are not adopted.

Second, **Kjorsvik** does not disclose "for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data". 3PR, however, argues this limitation is anticipated at col. 3:30-43, col. 5:14-17, and col. 3:58-65. (Request, pgs. 60-61, 65-66, 71, 76, 84, and 92).

Kjorsvik discloses the duration, sequencing, and timing of the content data (presentations) is controlled by either the administration module (col. 3:41-43, col.4:17-18) or the user of the individual PC. (col. 5:24-32) **Kjorsvik**, however, does not disclose the duration, sequencing, and timing of the content data (presentations) is provided by a content provider (other network server with a database of presentations). For least this reason, proposed rejections (1)-(2) are not adopted.

**REASONS FOR NOT ADOPTING
PROPOSED REJECTIONS (3)-(5) OVER RAKAVY**

39. First, **Rakavy** does not disclose the limitation "without the content data being aggregated at a common physical location remote from the content display system prior to being provided to the content display system". 3PR, however, argues this limitation is anticipated at col. 5:54-57, col. 5:33-35, and col. 12:6-15, which are reproduced below.

(Request, pgs. 99-101, 103, 106-107, 101, 115, and 120)

"In an alternate embodiment of the present invention, the selected advertisement may be stored on any one of the plurality of advertising system servers connected to the Network 700." (Rakavy, 5:54-57)

"The main roles of the Advertising System Server 600 are to store Advertisements 50, transfer the Advertisements 50 to the Local Computer 500, and collect user feedback." (Rakavy, 5:33-35)

"The Advertisement Feeder 250, is responsible for adding new Advertisements 50 to the User Preference and Advertisement Database 230. Advertisements 50 preferably are provided from the Internet through the Internet Feeder 270, however, the Advertisements Feeder 250 is not dependent on the type of advertisement source and may receive Advertisements 50 from other sources, such as commercial on-line services, via other feeder mechanisms and other types of polite agents." (Rakavy, 12:6-15)

Rakavy discloses the advertisement feeder #250 is responsible for adding new advertisements to the advertisement database #230. (col. 12:5-8). **Rakavy** also discloses the advertisement display manager #210 selects and displays advertisements

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#50 from the user preference and advertisements database #230. (col. 10:43-45) As such, **Rakavy** discloses the content data (advertisements) are aggregated at a common physical location (advertisement database #230) prior to being provided to the content display system (local computer). Consequently, **Rakavy** does not anticipate this limitation at col. 5:54-57, col. 5:33-35, and col. 12:6-15.

In addition, **Rakavy** does not make this claim limitation obvious because figure 4 discloses the only input to the Advertisements Display Manager #210 is the Interad Database #230. As such, it would NOT be obvious to one of ordinary skill in the art to modify the system of **Rakavy** so that the content data (advertisements) are NOT aggregated at a common physical location (database #230) because figure 4 discloses other software modules are dependent upon the database #230 and such a modification would impact the operation of the dependent software modules. Further, 3PR does not rely on a secondary reference to teach this limitation because 3PR alleges this limitation is anticipated by **Rakavy**. For at least these reasons, proposed rejections (3)-(5) are not adopted.

Second, proposed rejection (5) is not adopted because it does not set forth a prima facie case of obviousness as required by *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The factual inquiries set forth in *Graham v. John Deere Co* that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

However, 3PR does not ascertain the differences between **Rakavy** and the claims at issue. (*Request, pg. 125*) For the reader's convenience, 3PR's statement on this proposed rejection is set forth below

E. U.S. Patent No. 5,913,040 to Rakavy and U.S. Patent No. 5,748,190 to Kjorsvik

Claims 1, 3, 5, 7, 9, 10, 12, 13, and 15 are unpatentable under 35 U.S.C. § 103 as being obvious over the combination of Rakavy and Kjorsvik as discussed below. As described above, Rakavy and Kjorsvik individually disclose all of the limitations of claims 1, 3, 5, 7, 9, 10, 12, 13, and 15. However, to the extent the Examiner determines that Rakavy is missing a limitation, Kjorsvik provides the missing feature. Additionally, to the extent the Examiner determines that Kjorsvik is missing a limitation, Rakavy provides the missing feature.

A person of ordinary skill in the art would have been motivated to combine Rakavy and Kjorsvik because both are related to the display of content to a user during idle periods. Furthermore, a person of ordinary skill in the art could have combined the elements taught by Rakavy and Kjorsvik by known methods and would have recognized that the results of the combination were predictable.

In addition, 3PR alleges **Rakavy** anticipates each and every limitation of claims 1, 3, 5, 7, 9, 10, 12-13, and 15 while simultaneously arguing that these claims are also obvious over **Rakavy** in view of **Kjorsvik**. (*Request, pgs. 98-122*) Since this proposed rejection does not set forth the differences between **Rakavy** and the claims at issue as

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required by *Graham v. John Deere Co.* to establish a prima facie case of obviousness,
proposed rejection (5) is not adopted.

Conclusion

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

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

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

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

Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at:

<https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>.

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 314(c) requires that *inter partes* reexamination proceedings "will be conducted with special dispatch"

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(37 CFR 1.937). Patent Owner extensions of time in *inter partes* reexamination proceedings are provided for in 37 CFR 1.956. Extensions of time are not available for third party requester comments, because a comment period of 30 days from service of patent owner's response is set by statute. 35 U.S.C. 314(b)(3).

The patent owner is reminded of the continuing responsibility under 37 CFR 1.985(a) to apprise the Office of any litigation activity, or other concurrent proceeding, involving USP 7,400,274 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding.

See MPEP §2686 and 2686.04.

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:

/Deandra M. Hughes/
Primary Examiner, AU 3992

Conferees:



MARK J. REINHART
CRU SPE-AU 3992