

EXHIBIT 1



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 90/011,577 | 03/17/2011 | Subutai Ahmad | 20192.0002.RX000 | 1771 |

27572 7590 05/06/2011

HARNES, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 05/06/2011

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



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THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS
NOVAK DRUCE & QUIGG, LLP
(NDQ REEXAMINATION GROUP)
1000 LOUISIANA STREET, FIFTY-THIRD FLOOR
HOUSTON, TX 77002

Date:

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MAY 05 2011

CENTRAL REEXAMINATION UNIT

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. : 90011577
PATENT NO. : 6263507
ART UNIT : 3992

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified ex parte reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the ex parte reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

| | | | |
|--|---------------------------------------|---|--|
| Order Granting / Denying Request For Ex Parte Reexamination | Control No. 90/011,577 | Patent Under Reexamination AHMAD ET AL. 6,263,507 | |
| | Examiner MAJID A. BANANKHAH | Art Unit 3992 | |

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

The request for *ex parte* reexamination filed 17 March 2011 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) PTO-892, b) PTO/SB/08, c) Other: _____

1. The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

2. The request for *ex parte* reexamination is DENIED.

This decision is not appealable (35 U.S.C. 303(c)). Requester may seek review by petition to the Commissioner under 37 CFR 1.181 within ONE MONTH from the mailing date of this communication (37 CFR 1.515(c)). **EXTENSION OF TIME TO FILE SUCH A PETITION UNDER 37 CFR 1.181 ARE AVAILABLE ONLY BY PETITION TO SUSPEND OR WAIVE THE REGULATIONS UNDER 37 CFR 1.183.**

In due course, a refund under 37 CFR 1.26 (c) will be made to requester:

- a) by Treasury check or,
b) by credit to Deposit Account No. _____, or
c) by credit to a credit card account, unless otherwise notified (35 U.S.C. 303(c)).

cc:Requester (if third party requester)

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Decision on Request for *Ex Parte* Reexamination

1. In the request for reexamination filed March 17, 2011, reexamination of U.S. Patent No. 6,263,507 ("subject patent", hereinafter '507 patent) with respect to claims 20-24, 27, 28, 31, 34, 37-40, 43, 63-67, 70, 71, 74, 77, 80-83, and 86 was requested under 35 U.S.C. §§ 302-307 and C.F.R. § 1.510. A substantial new question of patentability ("SNQ") is raised by the request for reexamination and prior art cited therein for the reasons set forth *below*. Accordingly, the request for reexamination is **GRANTED**.

The References Cited that Presents SNQ

2. The following documents were submitted by Requester as the basis for this Request for Reexamination.

- a. "Network Plus", Walter Bender et al., January 12-13, 1988 ("Bender").
- b. "Cluster-Based Text Categorization: A Comparison of Category Search Strategies", Makoto Iwayama, July 9-13, 1995 ("Iwayama").
- c. "The Fishwrap Personalized News System", Pascal R. Chesnais et al., June 1995 ("Chesnais").
- d. "Classifying News Stories using Memory Based Reasoning", Brij Masand, June 1992 ("Masand").
- e. "WebWatcher: Machine Learning and Hypertext", Thorsten Joachims et al., May 29, 1995 ("Joachims").
- f. JP Publication No. H07-114572 to Yuasa ("Yuasa").
- g. "Wire Service Transmission Guidelines Number 84-2", Special Report / American Newspaper Publishers Association, ANPA June 14, 1984 ("WTS Guidelines").
- h. "The Associated Press Stylebook and Libel Manual", The Associated Press, 1994 ("AP Stylebook").

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The *above* references are not of record in the prosecution history of the Ahmed '507 patent and are not cumulative to the art of record in the original file.

3. Since requester did not request reexamination of claims 1-19, 25-26, 29-30, 32-33, 35-36, 41-42, 44-62, 68-69, 72-73, 75-76, 78-79, 84-85 and 87-129 and did not assert the existence of a substantial new question of patentability (SNQ) for such claims (see 35 U.S.C. § 302); see also 37 CFR 1.510b and 1.515), such claims will **not** be reexamined. This matter was squarely addressed in *Sony Computer Entertainment America Inc., et al. v. Jon W. Dudas*, Civil Action No. 1:05CV1447 (E.D.Va. May 22, 2006), Slip Copy, 2006 WL 1472462. The District Court upheld the Office's discretion to not reexamine claims in a reexamination proceeding other than those claims for which reexamination had specifically been requested. The Court stated:

"To be sure, a party may seek, and the PTO may grant, ...review of each and every claim of a patent. Moreover, while the PTO in its discretion may review claims for which ... review was not requested, nothing in the statute compels it to do so. To ensure that the PTO considers a claim for ... review, ...requires that the party seeking reexamination demonstrate why the PTO should reexamine each and every claim for which it seeks review. Here, it is undisputed that **Sony** did not seek review of every claim under the '213 and '333 patents. Accordingly, **Sony** cannot now claim that the PTO wrongly failed to reexamine claims for which **Sony** never requested review, and its argument that AIPA compels a contrary result is unpersuasive."

Brief Prosecution History of the Ahmad '507 Patent

4. U.S. Patent Application Serial No. 08/761,030 was filed on Dec. 5, 1996, now U.S. Patent. No. 6,263,507 (hereinafter '507 patent). The '507 patent is currently assigned to Interval Licensing LLC, of Seattle Washington.

The '030 application was originally filed with 62 total claims, of which 12 claims were independent. The Patentee added dependent application claims 63-67 by preliminary amendment filed Sept. 21, 1998.

Examiner's Note: For brevity Examiner address herein those portions of the prosecution history that are relevant to the claims for which reexamination is requested, but do not address aspect of the prosecution history unrelated to the claims for which reexamination is requested.

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First Office Action

On May 18, 2000, Examiner issued an Office Action and in that, the Examiner indicated that application claims 35 and 59 (among others), which issued as claims 20 and 63, respectively were allowable. There was no further examination of what ultimately issued as claims 20 and 63. Nor was there any further examination of dependent claims 68-103, which were added just after issuance of a Final Office Action and ultimately issued as claims 21-38 and 64-81.

Regarding "the most relevant art of record" with respect to claims 35 and 59, the Examiner stated reasons for allowance as follows:

"The following is a statement of reasons for the indication of allowable subject matter: the prior art, alone or in combination, with respect to claims ...35 and 59, and ... fails to teach or fairly suggest a system for acquiring and reviewing a body of information as set forth in claim 1, particularly in which data representing segments of the body of information are acquired and stored, and subsequently compared according to predetermined criteria following the display of a first segment, such that if segments are related then a second segment is displayed. As for the most relevant art of record, the Cobbley et al (5,614,940) reference discloses a system in which broadcast information is stored in a cache and indexed for retrieval by requesting end users, The system fails to disclose or suggest to comparison of segments for the subsequent display of related segments by respective 'display means'. The Hidary et al. (5,774,664) reference discloses a system in which video programming and retrieved Internet information segments are displayed in synchronization. The reference likewise fails to disclose o suggest the comparison of acquired segments of information. Rather the retrieval of web page information occurs automatically in response to their receipt via a particular television program, or in response to a particular time." *Id.* [underlining provided]

As seen from the *above*, regarding "the most relevant art of record" which respect to claims 35 and 59, the Examiner's statement of reasons for allowance were that Cobbley "fails to disclose or suggest to [*sic*] comparison of segments for the subsequent display of related segments by respective 'display means'." (Paper No. 10, at pg. 5).

Application claims 36 (issued claim 39) - 41 and 60 (issued claim 82) were rejected under 35 U.S.C. § 102(e) as anticipated by Herz et al U.S. 6,020,883.

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Response to First Office Action

On Sept. 18, 2000, the Patentee filed a response to the first Office Action, and in that response with respect to application claim 36 (issued claim 39) and application claim 60 (issued claim 82) and their dependent claims, the Patent Owner attempted to distinguish Herz on the basis of "subject matter" comparison, arguing that Herz does not teach "determining a degree of similarity between the subject matter content of an uncategorized segment and the subject matter content of each of one or more previously categorized segments." *Id.* at p. 9 (emphasis in original); see also *id.* at p. 11 ("Herz et al. do not teach that the result of a comparison of the customer profile and a content profile is a categorization of the content profile according to subject matter"). The patentee also attempted to distinguish Herz by arguing that Herz did "not teach that a customer profile is compared to a video program." *Id.* Thus, the patentees attempted to distinguish application claims 36 and 60 over Herz by arguing that Herz did not teach subject matter comparison or comparison to an uncategorized video segment. *Id.* at p. 9-12 (arguing with respect to claim 36); *id.* at p. 12 ("Claim 60, which recites limitations similar to those of Claim 36, is allowable as well.")

Final Office Action

A final Office Action was mailed on December 19, 2000 and in that, the earlier statement of reasons for allowance was supplemented to address the claims that previously had been rejected based on Herz. In particular, regarding application claims 36-41, and 60, the Examiner stated:

"the [applied] prior art, alone or in combination, does no [sic] teach or fairly suggest the categorizing according to subject matter an uncategorized body of information in which a degree of similarity is determined between subject matter content of each previously categorized segment and an uncategorized segment." *Id.*, pg. 5. [underlining provided]

Response to Final Office Action

On Feb. 20, 2001, the Patentee in response to the final Office Action cancelled the non-allowed claims, i.e., the application claims 18-33, and 66. Additionally, Patentee added new claims 68-148, which were stated to be "similar in content" to other, previously allowed claims of different type. (For example, application claims 68-85 were

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method claims that were indicated to be similar in content to previously allowed system claims; application claims 86-103 were computer readable medium claims that were indicated to be similar in content to previously allowed system claims; etc.) Of those new claims, application claims 68-71, 74, 75, 78, 81, 84, 85, 86-89, 92, 93, 96, 99, 102, 103, 104, and 107 are germane to the present Request for reexamination as issued claims 21-24, 27, 28, 31, 34, 37, 38, 64-67, 70, 71, 74, 77, 80, 81, 83, and 86.

Notice of Allowance

Subsequently, Examiner issued a Notice of Allowance on Mar. 4, 2001 in response to the Patentee's response to the final Office Action. The Notice of Allowance referred back to the statement of reasons for allowance set forth previously in the final Office Action.

Based on the forgoing, a particularly relevant characteristic upon which the Patentee relied in distinguishing issued claims 20 and 63 from the prior art of record and the Examiner indicated in his reasons for allowance was a system for acquiring and reviewing a body of information as set forth in claim 1, particularly in which data representing segments of the body of information are acquired and stored, and subsequently compared according to predetermined criteria following the display of a first segment, such that if segments are related then a second segment is displayed.

Additionally, a particularly relevant characteristic upon which the Patentee relied in distinguishing issued claims 39 and 82 from the prior art of record and the Examiner indicated in his reasons for allowance was the categorizing according to subject matter an uncategorized body of information in which a degree of similarity is determined between subject matter content of each previously categorized segment and an uncategorized segment.

Requester's Proposed SNQs

5. The requester at page 30 through page 43 of his request suggests that Bender, Chesnais and Joachims, alone or in combination with other references indicated *above* (See 2), raises a SNQ with respect to independent claims 20-24, 27, 28, 31, 34, 37, 38, 63-67, 70, 71, 74, 77, 80, and 81 of the '507 patent. The Examiner agrees.

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For example with respect to issued independent claims 20 and 63, Bender discloses the concept of using a computer-based system ("the news editor has been replaced by the personal computer") to display supplementary content along with primary telecast content, while the telecast content is shown. Bender at p. 82. Bender's comparison and display system provided "a more detailed examination of the same news articles which are summarily presented during a traditional one half hour television news show." *See* Bender, p. 81. This is facilitated by accessing "[a] variety of both local and remote databases." *Id.* By way of example, Bender in Figure 1 shows an original broadcast with a map in the background (top, center); a revised version of the broadcast with a different map locally inserted into the audiovisual document (lower, left); and a revised version of the broadcast with text that is related to the broadcast story inserted into the audiovisual document (lower right).

In another example illustrated in Figure 2, Bender shows a broadcast (bottom right) is presented along with the text of related news wire stories (left), along with pertinent still images from the broadcast (upper right).

With respect to implementation, Bender explains that a processor scans the closed captioning data that is normally transmitted with the broadcast information to determine the subject of the story being broadcast. Bender at p. 81. Additionally, "[s]elected frames drawn from the telecast and stored in local memory [can be] presented as well." (*See* Bender, pp. 81 and 83 (video stills)). Prior to the broadcast, news articles will have been collected (i.e., stored) and analyzed to develop keyword lists based on frequency. Bender, p. 82. As the broadcast occurs, the keyword lists corresponding to the newswire stories are compared to the closed captioning data corresponding to the broadcast stories to determine whether the newswire stories are related to the broadcast stories. *Id.* If the number of keywords common to both the broadcast story and a text or trial story exceeds a predetermined threshold, the two are deemed to be related such that the textual newswire story can be displayed along with the broadcast television story. *See* Bender, p. 82. Thus, as required by independent claims 20 and 63, the system compares data representing one segment of information (e.g., closed caption data for the news broadcast) to data representing a different segment of information (e.g., keyword data

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from newswire stories) to determine whether the segments are related, i.e., "match," and then displays the related segments together in real time. This is illustrated, for example, in Figure 3 (Bender, p. 86).

Bender teaches a system that compares different segments of information, and subsequently displays related segments of information based on that comparison. "[The system] matches stories during the broadcast [and] annotates the television news with articles drawn from a local copy of wire service news material selected and presented along with the video in real time". Bender at pp. 81-83 and 86. This comparison and display of related segments can be seen in Figure 2 of Bender.

Thus Bender discloses the critical feature that was indicated by the Examiner was missing in the prior art of record that is: "[...] comparison of segments for subsequent display of related segments by respective 'display means'".

Since Bender alone discloses or suggests the critical features that were considered distinguishing at least independent claims 20 and 63 from the prior art of record during original prosecution of the Ahmed '507 invention, a reasonable examiner would consider evaluation of the Bender important in determining the patentability of at least independent claims 20 and 63 of the Ahmed '507 patent. Accordingly, Bender alone raises a substantial new question of patentability as to claims 20 and 63, which question has not been decided in a previous examination of the Ahmed '507 patent.

6. The requester at page 45 through page 50 of his request suggests that Masand, Iwayama and Yuasa, alone or in combination with other references indicated *above* (See 2), raises a SNQ with respect to claims 39, 40, 43, 82, 83, and 86 of the '507 patent. The Examiner agrees.

For example with respect to independent claims 39 and 82, Masand discloses a technique for automatically categorizing a newly acquired news story by comparing it to previously categorized stories, and assigning categories to the newly acquired story based on the categories of the previously categorized stories determined to be most similar to the newly acquired story. *See* p. 59. Specifically, Masand disclosed a technique for comparing newly acquired stories to the Dow Jones Press Release News Wire's database

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of previously categorized stories. Documents were categorized using about 350 distinct codes, grouped into six categories (Industry, Market Sector, Product, Subject, Government Agency, and Region).

Masand teaches the use of Memory Based Reasoning (MBR) to classify (i.e., categorize) new, unseen news stories. *See* Abstract. MBR solves a new task (i.e., classifying a new story) by looking up examples of tasks (i.e., previously coded stories) similar to the new task and using the similarity between the new story and the previously coded stories to assign a code (i.e., category) to the new story. *See* Masand, p. 61. The MBR algorithm uses text from a new story, including single words and capitalized word pairs, to construct a relevance-feedback database query. *Id.* The query was run against the Dow Jones Press Release News Wire's database of previously coded stories using a text retrieval system called SEEKER.

The query returns a weighted list of previously coded documents that are near matches to the new document. *Id.* Codes are then assigned to the new document by combining the codes assigned to the k-nearest matches by score. *Id.* The best codes are chosen by implementing a score threshold. *Id.*

Masand teaches acquiring an uncategorized segment of information (stories originating from diverse sources such as newspapers, magazines, newswires, and press releases, p. 59), and determining a degree of similarity between the uncategorized segment and previously categorized segments by formulating a relevance feedback query to a database of previously categorized segments of information (p. 61, section 7). The results of the relevance feedback query are weighted by summing similarity scores (*Id.*). A list of relevant related information to the new, uncategorized information is provided as shown in Fig. 4.

Thus Masand discloses the critical feature that was indicated by the Examiner was missing in the prior art of record that is: “the categorizing according to subject matter an uncategorized body of information in which a degree of similarity is determined between subject matter content of each previously categorized segment and an uncategorized segment”.

Since Masand alone discloses or suggests the critical features that were considered distinguishing at least independent claims 39 and 82 from the prior art of record during original prosecution of the Ahmed '507 invention, a reasonable examiner would consider evaluation of the Masand important in determining the patentability of at least independent claims 39 and 82 of the Ahmed '507 patent. Accordingly, Masand alone raises a substantial new question of patentability as to claims 39 and 82, which question has not been decided in a previous examination of the Ahmed '507 patent.

Conclusion

7. See MPEP §§ 2249 and 2251 regarding the patent owner's option to file a statement following a reexamination order and the third-party requester's option to reply to said statement.

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. 305 requires that ex parte reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in ex parte reexamination proceedings are provided for in 37 CFR 1.550(c).

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 6,263,507 throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Any paper filed with the Office, i.e., any submission made, by either the patent owner or the third party requester must be served on every other party in the reexamination proceeding in the manner provided by § 1.248. The document must reflect service or the document may be refused consideration by the Office. See 37 CFR 1.550(f).

The patent owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding MUST (a) comply with 37 CFR 1.530(d)-(j), 37 CFR 1.52(a) and (b), and (b) contain any fees required by 37 CFR 1.20(c).

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Contact Information

All correspondence relating to this *ex parte* reexamination proceeding should be directed as follows:

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Central Reexamination Unit
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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

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

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

Signed: Majid Banankhah
Majid A. Banankhah
Primary Examiner
Central Reexamination Unit
(571)272-3770

Conferee:
Ovidio Escalante
Ovidio Escalante, Primary Examiner
Art Unit: 3992

Eric Keasel
Eric Keasel, SPE
Art Unit: 3992

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| Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i> | Complete if Known | | | | | | | | | | | | |
| | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Application Number</td> <td></td> </tr> <tr> <td>Filing Date</td> <td>March 17, 2011</td> </tr> <tr> <td>First Named Inventor</td> <td>Ahmad Subutai</td> </tr> <tr> <td>Art Unit</td> <td>3992</td> </tr> <tr> <td>Examiner Name</td> <td></td> </tr> <tr> <td>Attorney Docket Number</td> <td></td> </tr> </table> | Application Number | | Filing Date | March 17, 2011 | First Named Inventor | Ahmad Subutai | Art Unit | 3992 | Examiner Name | | Attorney Docket Number | |
| Application Number | | | | | | | | | | | | | |
| Filing Date | March 17, 2011 | | | | | | | | | | | | |
| First Named Inventor | Ahmad Subutai | | | | | | | | | | | | |
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| Examiner Name | | | | | | | | | | | | | |
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| Sheet 1 of 2 | | | | | | | | | | | | | |

| U. S. PATENT DOCUMENTS | | | | | |
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| 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 |
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| FOREIGN PATENT DOCUMENTS | | | | | | |
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| | | Country Code ³ -Number ⁴ -Kind Code ⁵ (if known) | | | | |
| | | JP Publication H07-114572 | 05-02-1995 | Yuasa | | |
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| Examiner Signature <i>Majid Benekhal</i> | Date Considered <i>5/5/11</i> |
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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.

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| | | Application Number | | | |
| | | Filing Date | March 17, 2011 | | |
| | | First Named Inventor | Ahmad Subutai | | |
| | | Art Unit | 3992 | | |
| | | Examiner Name | | | |
| Sheet | 2 | of | 2 | Attorney Docket Number | |

| NON PATENT LITERATURE DOCUMENTS | | | |
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| 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 |
| MB | | WALTER BENDER et al, "Network Plus," Jan. 12-13, 1998 | |
| M.S. | | MAKOTO IWAYAMA, "Cluster-Based Text Categorization: A COMPARISON of Category Search Strategies," July 9-13, 1995 | |
| MB | | PASCAL R. CHESNAIS et al, "The Fishwrap Personalized News System" June 1995 | |
| MB | | BRIJ MASAND, "Classifying News Stories Using Memory Based Reasoning," June 1992 | |
| MB | | THORSTEN JOACHIMS et al. "WebWatcher Machine Learning and Hypertext," May 29, 1995 | |
| MB | | "Wire Service Transmission Guidelines Number 84-2", Special Report / American Newspaper Publishers Association, ANPA June 14, 1984 | |
| MB | | "The Associated Press Stylebook and Libel Manual," The Associated Press, 1994 | |
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|--------------------|-----------------------|-----------------|--------|
| Examiner Signature | <i>Majid Banerjee</i> | Date Considered | 5/5/11 |
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