EXHIBIT 17

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/408,789	04/03/2003	Michael A. Cleron	18602-07124	3683

			EXAMINER
758 7590 03/09/2004			COURTENAY III, ST JOHN

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ART UNIT	PAPER NUMBER
2126	8

DATE MAILED: 03/09/2004

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

PTO-90C (Rev. 10/03)

-- 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 <u>3</u> 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 <u>03 April 2003</u>.

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) <u>1-22</u> 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    4a) Of the above claim(s) _____ is/are withdrawn from consideration.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) <u>1-22</u> 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 <u>03 April 2003</u> 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).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ 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.

ST. JOHN COURTENAY III
PRIMARY EXAMINER

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 or PTO/SB/08)
    Paper No(s)/Mail Date <u>Oct. 14, 2003</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

1. Claims 1-22 are presented for examination.

2. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

3. The Certificate under 37 C.F.R. § 3.73(b) does not appear to be proper in that it identifies the present reissue, and not the patent that is the subject of the reissue, as being assigned.

4. The reissue oath/declaration filed with this application is defective. It does not adequately identify at least one error as per C.F.R. §1.175(a)(1).

5. Stating that one filed a broadening reissue to "further claim subject matter disclosed in the specification" or to claim additional claims because of a "failure to claim," without identifying the specific feature is not adequate. See MPEP 1414 ("Rather, the oath/declaration must specifically identify an error.")

6. The statement of claiming subject matter "pertaining to types of services provided by network components and interconnected abstract classes" is not considered a specific identification of the error, but a general statement of what was not claimed.

7. Furthermore, an exact copying of the new claim does not meet the requirement. See MPEP 1414 ("it is not sufficient to merely

reproduce the claims with brackets and underlining and state that such will identify the error").

8. The reissue oath/declaration filed with this application is further defective because none of the errors which are relied upon to support the reissue application are errors upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414. The statement of error is directed to improper recapturing of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See explanation, below.

9. Claims 14-18 and 22 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See Hester Industries, Inc. v. Stein. Inc., 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); In re Clement, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); Ball Corp. v. United States, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984).

10. A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

11. Applicant's arguments on paper #31, page 4 (Amendment C, received April 5, 2000), of the patent application 6,212,575 state: "In particular, the limitation in claim 3 has been incorporated into claim 1", this amendment and the cancellation of claim 3 being made to overcome the prior art of record. With the aforementioned amendment, Applicant added the limitations "the network component layer includes application programming interfaces" and, "a first class included in the application programming interfaces to construct a first network navigation object that represents different network resources available on the computer network." Applicant has broadened claim 1 of the patent with new reissue independent claim 14 that eliminates the limitation of "a first class included in the application programming interfaces ..." to more broadly claim the subject matter of the patent by impermissibly recapturing previously surrendered subject matter.

12. Claims 1-22 are rejected as being based upon a defective reissue declaration under 35 U.S.C. §251, as set forth above. See 37 CFR 1.175. The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

13. 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 negatived by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhardt, Andy, "The Network with Smarts" BYTE, Oct. 1994, pages 51-64, in view of Lippman, Stanley B., "C++ Primer" 2nd edition, Addison-Wesley, 1991, pages 394-397.

As per claim 22:
Reinhardt discloses the invention substantially as claimed:

Reinhardt teaches a network navigation object coupled to a computer network [i.e., agents used on a network, see Agent Foundation description beginning p. 62 and entire agent disclosure]. The computer readable medium is inherent in the reference.

However, **Reinhardt** does not *explicitly* teach the following additional limitations:

Lippman teaches the notoriously well known use of abstract classes in the context of object-oriented hierarchies [e.g, see "abstract base class" shown in fig. 8.3 (page 397), and defined at the bottom of page 395 as "a class from which other classes can be derived"].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to improve upon the system taught by **Reinhardt** by implementing the improvements detailed above because it would provide **Reinhardt's** agent system with the enhanced capability of "a class from which other classes can be derived" [page 395].

How to Contact the Examiner:

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **St. John Courtenay III** whose voice telephone number is **(703) 308-5217.** A voice mail service is also available at this number.   Normal Flex work schedule: M – F   7:30 AM - 4:00 PM

- **All responses sent by U.S. Mail should be mailed to:**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Patent Customers advised to FAX communications to the USPTO

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/f axnotice.pdf

Effective Oct. 15, 2003, ALL patent application correspondence transmitted by FAX must be directed to the new PTO central FAX number:

**NEW PTO CENTRAL FAX NUMBER:
703-872-9306**

- Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: (703) 305-3900.**

**Please direct inquiries regarding fees, paper matching, and other issues not involving the Examiner to:
Technical Center 2100 CUSTOMER SERVICE: 703 306-5631**

The Manual of Patent Examining Procedure (MPEP) is available online at:
http://www.uspto.gov/web/offices/pac/mpep/index.html

ST. JOHN COURTENAY III
PRIMARY EXAMINER

	Application/Control No.	Applicant(s)/Patent Under Reexamination
	10/408,789	CLERON ET AL.

Examiner	Art Unit	
St. John Courtenay III	2126	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-			
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Reinhardt, Andy, "The Network with Smarts" BYTE, Oct. 1994, pages 51-64
	V	Lippman, Stanley B., "C++ Primer" 2nd edition, Addison-Wesley, 1991, pages 394-397
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

MAIL STOP AMENDMENT
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

AMENDMENT A

SIR:

This Amendment for the patent application identified above is in response to the Office

Action dated March 9, 2004.

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 7 of this paper.

AMENDMENTS TO THE CLAIMS

Please amend the claims as follows:

1.   (Original) An extensible and replaceable layered component computing arrangement residing on a computer coupled to a computer network, the layered arrangement comprising:

a software component architecture layer interfacing with an operating system to control the operations of the computer, the software component architecture layer defining a plurality of computing components; and

a network component layer for developing network navigation components that provide services directed to the computer network, the network component layer includes application programming interfaces; and

a first class included in the application programming interfaces to construct a first network navigation object that represents different network resources available on the computer network, wherein the network component layer coupled to the software component architecture layer in integrating relation to facilitate communication among the computing and network navigation components.

2.   (Original) The computing arrangement of claim 1 wherein the network navigation components are objects.

3.   (Original) The computing arrangement of claim 1 wherein the application programming interfaces further comprise a second class for constructing a second network navigation object representing a data stream for transferring information among objects of the arrangement.

4.   (Original) The computing arrangement of claim 3 wherein the first network navigation object is an Item object and the second network navigation object is a Stream object,

and wherein the Item object spawns the Stream object to obtain information from the network resource that the Item object represents.

5.   (Original) The computing arrangement of claim 3 wherein the application programming interfaces further comprise a third class for constructing a third network navigation object representing additional behaviors provided to computing components of the software component architecture layer to thereby enable communication between the computing components and the network navigation components.

6.   (Original) An extensible and replaceable layered component computing arrangement for providing services directed to information available on computer networks, the computing arrangement comprising:

> a processor;
>
> an operating system;
>
> a software component architecture layer coupled to the operating system to control the operations of the processor, the software component architecture layer defining a plurality of computing components; and
>
> a network component layer for creating network navigation components configured to search and obtain information available on the computer networks, the network component layer includes application programming interfaces; and
>
> means for constructing a network navigation component that represents different resources available on the computer network, wherein the network component layer is integrally coupled to the software component architecture layer to ensure communication among the computing and network navigation components.

7.   (Original) The computing arrangement of claim 6 wherein the network component layer and software component architecture layer comprise means for embedding components within one another to form a compound document having mixed data types and formats.

8.   (Original) The computing arrangement of claim 6 wherein the application programming interfaces comprise means for constructing a network navigation component that implements a protocol.

9.   (Original) The computing arrangement of claim 6 wherein the application programming interfaces comprise means for constructing a network navigation component that provides additional functionality to existing computing components to enable communication among the components.

10.   (Original) The computing arrangement of claim 9 wherein the computing component comprises a computing part having a viewing editor and data content.

11.   (Original) The computing arrangement of claim 10 wherein the computing component functions to one of transfer files over the networks, remotely log onto another computer coupled to the networks and view images on a screen of the computing arrangement.

12.   (Original) The computing arrangement of claim 10 wherein the network navigation component comprises a browsing component.

13.   (Original) The computing arrangement of claim 10 wherein the network navigation component comprises a component for one of displaying text and displaying movies on a screen of the computing arrangement.

14. (Cancelled).

15. (Currently Amended) The layered arrangement of claim 19 14, wherein the network navigation object is adapted to browse the computer network.

16. (Currently Amended) The layered arrangement of claim 19 14, wherein the network navigation object is adapted to display text on a computer display.

17. (Currently Amended) The layered arrangement of claim 19 14, wherein the network navigation object is adapted to display images on a computer display.

18. (Currently Amended) The layered arrangement of claim 19 14, wherein the network navigation object includes software commands for creating a datastream for transferring information between objects in the layered component computing arrangement.

19. (Original) An extensible and replaceable layered component computing arrangement residing on a computer adapted to be coupled on a computer network, the layered arrangement comprising:

      a software component architecture layer interfacing with an operating system to control the operations of the computer, the software component architecture layer defining a plurality of computing components;

      a network component layer adapted to be coupled to at least one network navigation component that provides a service directed to the computer network, the network component layer including an application programming interface; and

      a number of interconnected abstract classes included in the application programming interface, at least one abstract class for defining a network navigation object that represents a resource available on the computer network, the network component layer coupled to the software component architecture layer to facilitate communication among the network navigation component and at least one computing component.

20. (Original) The layered arrangement of claim 19, wherein the abstract class defines a network navigation object that represents a method of downloading information from a remote location on the computer network.

21. (Original) The layered arrangement of claim 19, wherein the abstract class defines a network navigation object that represents additional behaviors provided to the computing components of the software component architecture layer for integrating with the network component layer.

22. (Currently Amended) A computer-readable medium having stored thereon instructions which, when executed by a processor in a computer system adapted to be coupled to a computer network, cause the processor to perform the operations of A computer program

5   18602/07124/SF/5122004.3

product for providing network information services to a user of a computer system coupled to computer networks, the computer program product comprising a computer-readable medium containing computer program code for performing the operations:

> constructing a network navigation object based on at least one abstract class from a set of interconnected abstract classes; and
>
> using methods associated with the abstract class to enable interaction between the network navigation object and at least one computing component in a software component architecture layer interfacing with an operating system on the computer system to control the operations of the computer system.

23. (New) The computer program product of claim 22, wherein the network navigation object is adapted to browse the computer network.

24. (New) The computer program product of claim 22, wherein the network navigation object is adapted to display text on a computer display.

25. (New) The computer program product of claim 22, wherein the network navigation object is adapted to display images on a computer display.

26. (New) The computer program product of claim 22, wherein the network navigation object includes software commands for creating a datastream for transferring information between objects.

Claims 1-22 were pending and stand rejected. In response, claim 14 has been cancelled; claims 15-18 and 22 have been amended; and new claims 23-26 have been added.

In the second paragraph of the Office Action, Examiner indicated that the reissue application was filed without the required offer to surrender the original patent or an Affidavit or Declaration as to inaccessibility of the original patent. In response, Applicants submit original U.S. Patent Serial No. 6,212,575 B1.

In the third paragraph of the Office Action, Examiner indicated that Certificate under 37 C.F.R § 3.73 (b) is not proper in that it identifies the present reissue application instead of the U.S. Patent upon which the present reissue application is based. Applicants submit the requisite Certificate under 37 C.F.R § 3.73 (b) correctly identifying the U.S. Patent Serial No. 6,212,575B1.

In paragraphs four through eight of the Office Action, Examiner indicated that the Reissue Declaration is defective because it does not adequately identify at least one error as required by 37 C.F.R § 1.175 (a)(1). In response, Applicants submit a corrected original Reissue Declaration that adequately identifies at least one error. The Declaration is signed by inventors Michael Cleron and Timo Bruck. Applicants submit that the Petition under 37 C.F.R § 1.47 (a) was filed on September 5, 2003 on behalf of the nonsigning inventor Stephen Fisher. The petition was granted by the United States Patent and Trademark Office as indicated in the Decision According Status Under 37 C.F.R § 1.47 (a), a copy of which is submitted.

In paragraph nine of the Office Action, Examiner rejected claims 14-18 and 22 under 35 U.S.C. § 251 as being improper recapture of the subject matter surrendered during the prosecution of the U.S. Patent Serial No. 6,212,575B1 upon which the present reissue application is based. In response, Applicants have cancelled claim 14 and amended claims 15-18 to depend from the independent claim 19.

With respect to claim 22, Examiner has not provided any details on how claim 22 is being an improper recapture of the subject matter surrendered during the prosecution of the original patent. Indeed, in paragraph eleven of the Office Action, Examiner stated: "[a]pplicant has broadened claim 1 of the patent with new reissue independent claim 14 that eliminates the limitation of "a first class included in the application programming interfaces..." Nowhere in the Office Action, however, did Examiner indicate how new independent claim 22 is an improper

recapture of a surrendered subject matter. If Examiner continues to maintain his position with respect to claim 22, Examiner is respectfully invited to provide further details in support of his position.

In paragraph twelve of the Office Action, Examiner rejected claim 1-22 as being based upon a defective reissue declaration under 35 U.S.C § 251. In response, Applicants submit a corrected Reissue Declaration that adequately identifies at least one error. Therefore, Applicants respectfully request Examiner to remove the rejection to claims 1-22 under 35 U.S.C. § 251.

Response to Rejection Under 35 USC § 103(a) in View of Reinhardt and Lippman

In the 13th paragraph of the Office Action, Examiner rejected claim 22 under 35 U.S.C. § 103(a) as allegedly being unpatentable in view of Andy Reinhardt "The Network With Smarts", Byte, October 1994, pages 51-64 ("Reinhardt") to Lippman, Stanley B, "C++ Primer" 2nd edition, Addison-Wesley, 1991, pages 394-394 ("Lippman"). This rejection is respectfully traversed.

Amended claim 22 recites, *inter alia*, a computer program product for providing network information services to a user of a computer system..., the computer program product for performing the operations:

> constructing a network navigation object based on at least one
> abstract class from a set of interconnected abstract
> classes; and
> using methods associated with the abstract class to *enable*
> *interaction between the network navigation object and*
> *at least one computing component in a software*
> *component architecture layer* interfacing with an
> operating system on the computer system to control the
> operations of the computer system. (Emphasis added)

The claimed invention, as recited in claim 22, is directed to a computer program product for providing network information services to a user of a computer system. The claimed invention constructs a network navigation object based on at least one abstract class. The claimed invention also advantageously uses methods associated with the abstract class to enable interaction between the network navigation object and at least one computing component in a software component architecture layer. The claimed invention beneficially employs a "component-based" approach to browsing and retrieving network-oriented information as opposed to the monolithic application-based approach of prior browsing systems.

Reinhardt does not disclose or suggest the claimed invention. Reinhardt is a publication that discusses intelligent networks that utilize agent-based technology. Although Reinhardt discloses networks "designed to host software agents, or proxies, that move around the network, routing or filtering messages sent to a user and seeking out information or services on the user's behalf" (Reinhardt, page 51, col. 2), there is no disclosure in Reinhardt with respect to employing a component-based software architecture layer interfacing with an operating system of the computer system to control the operations of the computer system. As a corollary to this, Reinhardt does not disclose or suggest "interaction between the network navigation object and at least one computing component in a software component architecture layer," as claimed. Although Reinhardt suggests at page 64, col. 1 and col. 3 that the network agents are an alternative to monolithic on-line services, the modular object-oriented architecture is mentioned by Reinhardt with respect to the network agents and not software component architecture layer interfacing with an operating system. Accordingly, claim 22 is patentable over Reinhardt.

Lippman similarly does not cure the deficiency of Reinhardt. Lippman is merely a C++ tutorial describing the features and programming usage of standard C++ language. Although Lippman discloses at page 395 an abstract base class "designed as a class from which other classes can be derived", Lippman does not disclose or suggest "a software component architecture layer interfacing with an operating system on the computer system to control the operations of the computer system."

Since neither Reinhardt nor Lippman disclose a component-based software architecture layer interfacing with an operating system, a combination of the references does not produce the claimed invention. Accordingly, a person of ordinary skill in the art, considering the teachings of Reinhardt and Lippman would not find the claimed invention obvious.

Claims 23-26 depend either directly or indirectly from independent claim 22 and derive their patentability from the independent claim from which they depend, in addition to reciting their patentable features.

For these reasons, Applicants respectfully submits that all the pending claims, claims 1-13 and 15-26, are allowable over the cited art of record and request that the Examiner allow the case.

Respectfully submitted,

MICHAEL C. CLERON *et al.*

Dated: _July 7, 2004_   By: _____

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