IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ORACLE CORPORATION and ORACLE U.S.A. INC.,	)	
Plaintiffs/Counterclaim Defendants,	)	C.A. No. 06-414-SLR
v.	)	**JURY TRIAL DEMANDED**
EPICREALM LICENSING, LP,	)	**PUBLIC VERSION**
Defendant/Counterclaim Plaintiff.	)	

APPENDIX TO EPICREALM'S MEMORANDUM IN OPPOSITION TO ORACLE'S MOTION FOR SUMMARY JUDGMENT OF NO WILLFUL INFRINGEMENT

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Dated: August 21, 2008
Public Version Dated: August 28, 2008
880390 / 31393 / Oracle

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1.	USSN 08/794,269, Office Action, Aug. 23,2000, ORCL01623264-01623276
2.	USSN 08/962,536, Information Disclosure Statement, Nov. 21, 2000 ORCL01622918-01622919
3.	USSN 09/676,262, Information Disclosure Statement, Dec. 15, 2000
4.	USSN 10/714,738, Information Disclosure Statement, April 7, 2004
5.	USSN 10/446,042, Notice of References Cited, Dec. 6, 2005
6.	USSN 09/615,383, Information Disclosure Statement, Dec. 12, 2005
7.	Excerpt from deposition transcript of Shuang Chen, April 7, 2008
8.	Excerpt from deposition transcript of Paul Clark, July 11, 2008
9.	Excerpt from deposition transcript of Steve Harris, April 18, 2008
10.	Excerpt from deposition transcript of B. Kent Hill, Feb. 28, 2008
11.	Excerpt from deposition transcript of Mark Nelson, Feb. 22, 2008
12.	Excerpt from deposition transcript of Matthew Sarboraria, May 15, 2008
13.	Excerpt from deposition transcript of Michael Shamos, June 30, 2008
14.	Oracle10iAS Planning Update, ORCL01066383-01066413
15.	Excerpt from Expert Report Paul C. Clark, June 6, 2008
16.	Expert Report of Dr. David Finkel, May 2, 2008
17.	Excerpt from Report of Plaintiffs' Expert Michael I. Shamos Concerning Invalidity, May 2, 2008
18.	Exhibit 3 from Shamos Expert Report
19.	USPTO Performance and Accountability Report Fiscal Year 2007, Table 13A: Ex Parte Reexamination

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on August 28, 2008, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on August 28, 2008, the attached document was Electronically Mailed to the following person(s):

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Exhibit 1

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/794,269	02/03/97	ADINUTINLA S	3016-060

EXAMINER	
LAU, S	
ART UNIT	PAPER NUMBER
2755	19

LMC1/0830
HICKMAN PALERMO TRUONG & BECKER
1600 WILLOW STREET
SAN JOSE CA 95125-5106

DATE MAILED: 08/30/00

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

Commissioner of Patents and Trademarks

PTO-90C (Rev. 2/95) U.S. G.P.O. 1999 460-693 1- File Copy

Office Action Summary	Application No. 08/794,269	Applicant(s) Adunuthula, et al
	Examiner S. Lao	Group Art Unit 2755

[X] Responsive to communication(s) filed on *Jun 8, 2000*

[ ] This action is **FINAL.**

[ ] 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.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

[X] Claim(s) *1-12 and 14-36* is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

[ ] Claim(s) _____ is/are allowed.

[X] Claim(s) *1-12 and 14-36* is/are rejected.

[ ] Claim(s) _____ is/are objected to.

[ ] Claims _____ are subject to restriction or election requirement.

Application Papers

[ ] See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

[ ] The drawing(s) filed on _____ is/are objected to by the Examiner.

[ ] The proposed drawing correction, filed on _____ is [ ] approved [ ] disapproved.

[ ] The specification is objected to by the Examiner.

[ ] The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

[ ] Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

[ ] All [ ] Some* [X] None of the CERTIFIED copies of the priority documents have been

[ ] received.

[ ] received in Application No. (Series Code/Serial Number) _____.

[ ] received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

[ ] Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

[X] Notice of References Cited, PTO-892

[ ] Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

[ ] Interview Summary, PTO-413

[ ] Notice of Draftsperson's Patent Drawing Review, PTO-948

[ ] Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

ORCL01623264

DETAILED ACTION

1. Claims 1-12, 14-36 are pending. This action is in response to applicant's response filed 6/8/2000.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al in view of Heizer and Kahn et al.

As to claim 1, Putz teaches (abstract, col. 9, lines 21-30; col. 10, lines 20-37; col. 12, lines 33-55) a method for responding to a request (remote procedure calls) issued to a server (main server program 55) from a client (client 52-54) over a network system, the method comprising the steps of:

the server obtaining the request over a network (receive remote procedure calls);

the server identifying (check program dictionary) a program type corresponding to the request (named database operation program) among a plurality of program types (operation programs NewDocDecs, Render, DescriptionSearch),

if no currently executing instance of the program type (named operation program) exists, selectively initiating an instance of the program type (fork a child process of the named operation program),

the server dispatching the request to the instance (fork, then pass the remaining operating program arguments),

executing the instance to process the request (invoke operating program for performing),

responding to the request (return results of the operation).

Putz does not teach (1) the step of initiating is based on a comparison between how many instances are executing of the program type is executing and a prescribed number

of the program type, (2) determining whether an instance of the program type currently exists that is not currently processing a previously received request.

As to (1), Heizer teaches a method for responding to a request (request) issued to a server program type (server 122) from a client (client 103), including initiating an instance of the program type (server process 202, 203) based on a comparison between how many instances are executing of the program type is executing (fig. 3) and a prescribed number of instances of the program (low/high water mark); see col. 2, line 20 - col. 4, line 55; fig.s 1-5.

Putz creates an instance of a named program type for each client request of that named program type, which eventually will cause server overloading. This the aspect of the request dispatching that Heizer addresses to improve. (Col. 1, lines 21-41). Therefore, one of the ordinary skill in the art would have been motivated to apply the teaching of Heizer to Putz's dispatching of each named program, to prevent server overloading. The combination would have provided maximum number of instances for each named program type.

As to (2), Kahn teaches management of server resource (internal reader), wherein if there is a server instance currently exists (previously created internal reader) that is not currently processing a previously received request (which has finished processing and waiting for additional work, idle), an incoming request/job is assigned to such server instance. Otherwise, new server instances are initiated/created to handle the request/job. See abstract, col. 13, lines 40-63, col. 15, lines 35-61, col. 18, lines 11-35. Kahn determines whether there is an available/idle/not_currently_processing server instance by checking the IDLE flag for an internal reader. It would have been obvious to include the teaching of Kahn into Putz as modified so as to provide handling of changing work flow without excessive system overhead (Kahn, col. 18, lines 31-35).

As to claim 25, it is program product claim of claim 1.

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer and Kahn et al and further in view of Donica et al.

As to claim 2, Donica teaches responding to a client request, including obtaining the request by a server process (scheduler) executing in a first address space (scheduler address space 30), initiating an instance of a service program (initiator) in a second address space that is separate from the first address space (initiator address space 40 separate from 30), see col. 5, lines 31-34. Since Putz, Heizer, Kahn et al and Donica address load balancing and reducing operating system overhead, it would have been obvious to combine the teachings.

As to claim 3, Donica teaches after executing an instance, maintaining it in memory for executing a subsequent request (idle initiators already assigned to a class), see col. 7, lines 19-24. Note discussion of claim 2 for motivation to combine.

5. Claims 4, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer and Kahn et al as applied to claims 1, 25 and further in view of Tobe et al.

As to claim 4, Tobe teaches network resource management, including detecting (detect by the system) a fault in an instance during execution thereof (node goes down); and aborting the instance in response to detecting the fault (back up node takes over), see col. 9, lines 42-52. Since Putz, Heizer, Kahn et al and Tobe address resource management and overhead, it would have been obvious to combine the teachings.

As to claim 26, it is program product claim of claim 4.

6. Claims 5-9, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer and Kahn et al as applied to claims 1, 25 and further in view of Donica et al and Atkins et al.

As to claim 5, Donica teaches specifying at least one of a maximum (maximum number of initiators) and a minimum (minimum number of initiators) number of instances (col. 6, lines 3-5, fig. 2).

As to that each instance executes within an address space that is separate from the address spaces used by other instances of the program, it is taught by Atkins in that each node holds an instance (copy) of a service program (shared object), see pg. 3, left col.,

lines 7-20. Since Putz, Heizer, Donica and Atkins address server resource management, it would have been obvious to combine the teachings.

As to claims 6-9, Heizer teaches initiating a specified minimum number of instances (one server process 202) prior to obtaining the request over the network (on start up, col. 3, lines 16-17), after obtaining the request over the network, determining if one of the minimum number of instances is available for processing said request (first request, col. 4, lines 3-13), after obtaining the request over the network, initiating a new instance of the program if none of the minimum number of instances is available for processing said request and the number of instances is less than the maximum number of instances (third request, col. 4, lines 17-29), executing said instance includes executing an available instance from the minimum number of instances (first request, col. 4, lines 3-13), returning the request to the network without processing said request based on the prescribed number of said instances exceeding a maximum value (21st request, col. 4, lines 52-56).

As to claim 27, it is program product claim of claim 5.

7. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer and Kahn et al as applied to claim 1 and further in view of Donica et al and Travis et al.

As to claims 10-11, Donica teaches specifying a maximum number of instances, as discussed on claim 5. Travis teaches registering a plurality of programs (applications) with the server (register, col. 17, line 58 - col 18, line 45; server registration, col. 18), specifying a virtual path for a program (names of classes/messages), request (invocation, message) identifies a virtual path (message names), identifying the program (method to perform the operation) based on the virtual path identified in the request (select from the database, Invoker Operation, col.s 25-29), Since Putz, Heizer, Kahn et al, Donica and Travis address request allocation, it would have been obvious to combine the teachings.

Travis teaches specifying other data such as performance information (parameters supported, col. 18, lines 20-29), it would have been obvious to specify a maximum number of instances which is commonly regarded as performance information.

8. Claims 12, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer and Kahn et al as applied to claim 1 and further in view of Djakovic.

As to claim 12, Heizer teaches receiving the request from a transport protocol process (protocol/network software 113), but fails to teach receiving is according to a first protocol and converting the request to a second protocol independent from the first protocol.

However, Djakovic teaches receiving a request (job submitted by client) according to a first protocol (source protocol) and converting the request to a second protocol independent from the first protocol (form a new job in target protocol), see col. 1, lines 40-51; fig. 3. Since Putz, Heizer, Kahn et al and Djakovic address server processing clients request/job, it would have been obvious to combine the teachings.

As to claim 21, note discussion of claim 1 for obtaining, step A)-C), and note discussion of claim 12 for a transport adaptor / means configured to perform protocol conversions. Heizer further teaches forwarding the request to a dispatcher (control process 204 accepts new client) executed by the server; and processing the request by causing the dispatcher to perform the step D) if no instance is available and the existing number of instances exceeds the maximum prescribed number, then sending said reply over the network indicating the request was not processed (when the maximum number of server processes is set at 20, request 21st is rejected, step 317), see col. 3, lines 10-23; col. 4, lines 3-56. Note discussions of claims 1, 12 for motivations to combine.

As to claim 22, note discussion of claim 6.

As to claim 23, Heizer teaches sending a replying indicating the request is not processed (reject, step 317), and sending such a reply when no program configured to handle the request would have been an obvious condition to apply.

As to claim 24, Heizer teaches server process (control process 204), and plug-in routine added to the server process (library 121) .

9. Claims 28-30, 34, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer, Kahn et al as applied to claim 1 and further in view of admitted prior art (pages 1-3).

As to claim 28, note discussion of claim 1, in particular, note claim 1 for receiving request and sending response, for dispatcher selectively dispatching / dispatching and sending the response / responding, for not currently processing and each program having a prescribed number of instances / maximum / minimum. The instances (server process) of a program type of Heizer reside at respective address spaces (202, 203) since they execute on their respective clients.

Further, Heizer teaches network listener (protocol/network software 113), each program type configured to perform an operation that generates an output in response to receiving a request (a server process is to receive a client request, process the request and send a response).

As to that the dispatcher is in a plug-in format, it is taught by admitted prior art (plug-in extensions, page 2, last para.). It would have been obvious to include the plug-in format of admitted prior art into the system/method of Heizer as modified to provide dynamic response to request (page 2, last para.).

As to claims 29-30, admitted prior art teaches receiving the request and sending the response based on Hypertext Transfer Protocol (HTTP) (HTTP, page 1, lines 9-10), to output a static Hypertext Markup Language (HTML) page (page 1, last para.). A daemon is a well known means for performing services.

As to claim 34, Heizer teaches initiating a prescribed minimum number of said instances of the corresponding program (one instance, see rejection of claim 13). Each execution engine is taught by well known distributed network managers.

As to claim 36, Putz teaches registering (the program directory) program types (named database operations) with a dispatcher (main server program 55) for dispatching client requests. (col. 10, lines 31-37). Typically registering with a program directory includes registering the locations/addresses.

10. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer, Kahn et al in view of admitted prior art as applied to claim 28 and further in view of Donica.

As to claim 35, Donica teaches configuration library (PARMLIB) identifying for each of the programs the corresponding object type (class) and the prescribed number of instances (maximum and minimum numbers of initiators), see col. 6, lines 1-5; col. 8, lines 27-31. As to plug-in format, note discussion of claim 28. Note rejection of claim 2 for motivation to combine.

11. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer, Kahn et al in view of admitted prior art as applied to claim 28 and further in view of Djakovic.

As to claim 31, note the discussion of claim 12.

12. Claim 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer, Kahn et al in view of admitted prior art as applied to claim 28 and further in view of Page et al.

As to claims 32-33, Page teaches a plurality of execution engines to control the execution of program instances and to receive the request (adapters to DCE, DDE, LU6.2) (distributed brokers), API specifying predetermined operations, including at least one of initialization (REGISTER), execution of the request (SEND), and shutdown (EOC, ABENDS), see fig.s 8, 17B, 21, 23. Since Putz, Heizer, Donica, Atkins, APA, Travis and Page address client server management, it would have been obvious to combine the teachings.

13. Claims 14, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer, Kahn et al as applied to claim 1 and further in view of Donica et al.

As to claim 17, note discussions of claims 1, 10-11 (with respect to Donica), and Heizer further teaches forwarding the request to a dispatcher (control process 204 accepts

new client) executed by the server; and processing the request by causing the dispatcher to perform the steps of A) determining whether an available instance of a program configured to handle the request is available among an existing number of instances of the program (decides which of 202, 203 should handle the client), B) if an available instance is available, then dispatching the request for execution by the available instance (first request is given to 202 since it is activated, step 307), C) if no instance is available, then initiating a new instance of the program for execution of the request if the existing number of instances does not exceed a maximum prescribed number (for the third request, a new server process 203 is started, step 313), and D) if no instance is available and the existing number of instances exceeds the maximum prescribed number, then sending said reply over the network indicating the request was not processed (when the maximum number of server processes is set at 20, request 21st is rejected, step 317), see col. 3, lines 10-23; col. 4, lines 3-56.

Further, Putz teaches registering (the program directory) program types (named database operations) with a dispatcher (main server program 55) for dispatching client requests. (col. 10, lines 31-37). Typically registering with a program directory includes registering the locations/addresses. Registering with a dispatcher (control process) information of a maximum number of instances (high water mark) of a service is taught by Heizer (see discussion of claim 1).

As to claim 14, Heizer teaches receiving by the dispatcher (control process/server program) a reply (response) from the instance executing and sending information contained to a client (send response). See fig. 1.

14. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer, Kahn et al in view of Donica et al as applied to claim 17 and further in view of Tobe et al.

As to claim 15, note discussion of claim 4 for detecting and terminating/aborting and dispatcher (management node, col. 4, lines 49-51).

As to claim 16, sending a reply is covered by claim 17, step D).

15. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Putz et al, Heizer, Kahn et al in view of Donica et al as applied to claim 17 and further in view of Atkins et al.

As to claims 18-19, note discussion of claim 5.

16. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Putz, Heizer, Kahn in view of McChesney et al.

As to claim 20, note discussions of claims 1, and Heizer further teaches forwarding the request to a dispatcher (control process 204 accepts new client) executed by the server; and processing the request by causing the dispatcher to perform the steps of A) determining whether an available instance of a program configured to handle the request is available among an existing number of instances of the program (decides which of 202, 203 should handle the client), B) if an available instance is available, then dispatching the request for execution by the available instance (first request is given to 202 since it is activated, step 307), C) if no instance is available, then initiating a new instance of the program for execution of the request if the existing number of instances does not exceed a maximum prescribed number (for the third request, a new server process 203 is started, step 313), and D) if no instance is available and the existing number of instances exceeds the maximum prescribed number, then sending said reply over the network indicating the request was not processed (when the maximum number of server processes is set at 20, request 21st is rejected, step 317), see col. 3, lines 10-23; col. 4, lines 3-56.

As to E), McChesney teaches a process/object life cycle management system, including delaying and automatically deallocating an instance after a predetermined time interval (API Shutdown 223, automatically shutdown an idle process after a time interval). See fig. 2, col. 30, line 52 - col. 31, line 3. Since McChesney addresses object/resource management as does Putz as modified, it would have been obvious to combine the teachings.

17. Applicant's arguments filed 6/8/2000 have been considered but are moot in view of the new ground(s) of rejection.

In the response, applicant's representative argued in substance that the motivations to combine the cited references must be expressly found in the cited references and not based on hindsight/applicant's disclosure.

The examiner's response is as follows.

MPEP § 2143.01 requires that the suggestion or motivation to combine references must be found in the references themselves, OR, in the knowledge generally available to one of ordinary skill in the art. The proper test for the relevance of a cited combination of references is: "whether the teachings of the prior art, taken as a whole, would have made obvious the claimed invention," In re Gorman, 933 F.2d at 986, 18 USPQ2d at 1888. Subject matter is unpatentable under section 103 if " 'would have been obvious ... to a person having ordinary skill in the art.' While there must be some teaching, reason, suggestion, or motivation to combine existing elements to produce the claimed device, it is not necessary that the cited references or prior art specifically suggest making the combination: In re Nilssen, 851 F.2d 1401, 1403, 7 USPQ2d 1500, 1502 (Fed. Cir. 1988)." Such suggestion or motivation to combine prior art teachings can derive solely from the existence of a teaching, which one of ordinary skill in the art would be presumed to know, and the use of that teaching to solve the same [or] similar problem which it addresses. In re Wood, 599 F.2d 1032, 1037, 202 USPQ 171, 174 (CCPA 1979). "In stun, it is off the mark for litigants to argue, as many do, that an invention cannot be held to have been obvious unless a suggestion to combine prior art teachings is found in a specific reference." In re Oetiker, 24 USPQ2d 1443 (CAFC 1992).

In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgement on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned

only from the applicant's disclosure, such a reconstruction is proper. In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue Lao whose telephone number is (703) 305-9657. The fax number for this Group is (703) 305-9731.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Sue Lao
August 23, 2000

MAJID BANANKHAH
PRIMARY EXAMINER

Notice of References Cited

Application No.	Applicant(s)		
08/794,269	Adunuthula, et al		
Examiner		Group Art Unit	Page 1 of 1
S. Lao		2755	

U.S. PATENT DOCUMENTS

	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS
A	5,894,554	4/1999	Lowery et al	395	200.33
B	6,070,191	5/2000	Narendran et al	709	226
C	6,098,093	8/2000	Bayeh et al	709	203
D					
E					
F					
G					
H					
I					
J					
K					
L					
M					

FOREIGN PATENT DOCUMENTS

	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
N						
O						
P						
Q						
R						
S						
T						

NON-PATENT DOCUMENTS

	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
U		
V		
W		
X		

Exhibit 2

OIPE NOV 24 2000 PATENT & TRADEMARK OFFICE

GP ~~2764~~ 2161

50277-0145

PATENT # 37

X 32

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Lawrence JACOBS, et al.

Serial No.: 08/962,536

Examiner: Yehdega Retta

Filing Date: October 31, 1997

Art Unit: 2764

RECEIVED
NOV 29 2000
Group 2100

For: METHOD AND APPARATUS FOR PERFORMING TRANSACTIONS IN A STATELESS WEB ENVIRONMENT WHICH SUPPORTS A DECLARATIVE PARADIGM

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
Washington, DC 20231

Dear Sir:

This Information Disclosure Statement is being filed under Rule 37 CFR 1.97(i), wherein applicants are submitting references before the grant of a patent to be placed in the file but not considered by the Patent Office.

Accordingly, copies of the references as listed on the attached Form PTO 1449 are submitted herewith for placement in the file. No certification or fees are deemed necessary.

Respectfully submitted,
HICKMAN PALERMO TRUONG & BECKER LLP

Carl L. Brandt
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1600 Willow Street
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CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited as first-class mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231:
on November 21, 2000 by Jennifer Newell

#32

SHEET 1 OF 1

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(PTO-1449)

OIPE JC47 NOV 24 2000 PATENT & TRADEMARK OFFICE

RECEIVED NOV 29 2000 Group 2100

ATTY. DOCKET NO.	SERIAL NO.
50277-0145	08/962,536

APPLICANT: Jacobs, et al.

FILING DATE	GROUP
October 31, 1997	2764

U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
YR	4,918,595	04/17/90	Kahn et al.	364	200	
	5,210,824	05/11/93	Putz et al.	395	145	
	5,212,793	05/18/93	Donica, et al.	395	700	
	5,249,290	09/28/93	Heizer	395	650	
	5,329,619	07/12/94	Page et al.	395	200	
	5,341,478	08/23/94	Travis, Jr. et al	395	200	
	5,592,654	01/07/97	Djakovic	395	500	
	5,752,246	05/12/98	Rogers et al.	707	10	
	5,761,507	06/02/98	Govett	395	684	
	5,778,224	07/07/98	Tobe et al.	395	670	
	5,802,291	09/1/98	Balick et al.	395	200.32	
	5,857,102	01/5/99	McChesney et al.	395	145	
	5,894,554	04/13/99	Lowery, et al.	395	200.33	
	6,070,191	05/30/00	Narendran, et al.	709	226	

FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes	Translation No
YR	553560A2	08/04/93	EPO	~			

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER	DATE CONSIDERED
Yehdega Retta	2/2/01

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.

Exhibit 3

GAU 2173
#3
BT
11-14-c

Attorney Doc No. 50277-1605

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Jacobs, et al.

Serial No.: 09/676,262

Filed on: September 28, 2000



Group Art Unit No.: 2173

Examiner: Not Yet Assigned

For: METHOD AND APPARATUS FOR INCORPORATING STATE INFORMATION INTO A URL

RECEIVED
DEC 28 2000
TC 2100 MAILROOM

Commissioner for Patents
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT

Sir:

Enclosed is a copy of Information Disclosure Citation Form PTO-1449 identifying references that have already been submitted in parent application, U.S. Patent Application No. 08/962,028, filed October 31, 1997. We are enclosing a copy of one reference. It is respectfully requested that the cited documents be considered and that the enclosed copy of Information Disclosure Citation Form PTO-1449 be initialed by the Examiner to indicate such consideration and a copy thereof returned to applicant(s).

Pursuant to 37 C.F.R. § 1.97, the submission of this Information Disclosure Statement is not to be construed as a representation that a search has been made and is not to be construed as an admission that the information cited in this statement is material to patentability.

Pursuant to 37 C.F.R. § 1.97, this Information Disclosure Statement is being submitted under one of the following (as indicated by an "X" to the left of the appropriate paragraph):

__X__ 37 C.F.R. §1.97(b).

_____ 37 C.F.R. §1.97(c). If so, then enclosed with this Information Disclosure Statement is one of the following:

Attorney Doc . No. 50277-1605

_____ A statement pursuant to 37 C.F.R. §1.97(e) or

_____ A check for $180.00 for the fee under 37 C.F.R. § 1.17(p).

_____ 37 C.F.R. §1.97(d). If so, then enclosed with this Information Disclosure Statement are the following:

(1) A statement pursuant to 37 C.F.R. §1.97(e);

(2) A petition requesting consideration of the Information Disclosure Statement; and

(3) A check for $_____ for the fee under 37 C.F.R. §1.17(i) for submission of the Information Disclosure Statement.

_____ 37 C.F.R. §1.97(i). Wherein applicants are submitting references before the grant of a patent to be placed in the file but not considered by the Patent office.

(1) Accordingly, copies of the references as listed on the attached Form PTO 1449 are submitted herewith for placement in the file. No certification or fees are deemed necessary.

Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to Oracle deposit account 15-0635. A duplicate of this sheet is enclosed.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: December 15, 2000

Carl L. Brandt
Reg. No. 44,555

1600 Willow Street
San Jose, California 95125-5106
Telephone: (408) 414-1080
Facsimile: (408) 414-1076

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: Commissioner for Patents, Washington, D.C. 20231

on Dec 18, 2000 by Irena Say

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(PTO-1449)

OIPE JC144 DEC 26 2000 PATENT & TRADEMARK OFFICE

RECEIVED DEC 28 2000 TC 2100 MAIL ROOM

ATTY. DOCKET NO.	SERIAL NO.,
50277-1605	**09/676,262**
APPLICANT **Jacobs, et al.**	
FILING DATE **September 28, 2000**	GROUP **2173**

U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
TH	4,918,595	04/17/90	Kahn et al.	364	200	07/31/87
	5,210,824	05/11/93	Putz et al.	395	145	03/03/89
	5,212,793	05/18/93	Donica et al.	395	700	09/04/91
	5,249,290	09/28/93	Heizer	395	650	02/22/91
	5,329,619	07/12/94	Page et al.	395	200	10/30/92
	5,341,478	08/23/94	Travis, Jr. et al.	395	200	08/14/90
	5,361,350	11/01/94	Conner et al.	395	600	12/12/91
	5,457,797	10/10/95	Butterworth et al.	395	682	03/22/95
	5,504,897	04/02/96	Gans et al.	395	650	02/22/94
	5,546,584	08/13/96	Lundin et al.	395	700	07/01/92
	5,592,654	01/07/97	Djakovic	395	500	06/03/94
	5,613,148	03/18/97	Bezviner et al.	395	800	06/14/93
	5,623,656	04/22/97	Lyons	395	610	12/15/94
	5,706,442	01/06/98	Anderson et al.	395	227	12/20/95
	5,708,780	01/13/98	Levergood et al.	395	200.12	06/07/95

FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes	Translation No
TH	0553560A2	08/04/93	EPO				
TH	EP 0 733 969 A1	Sep. 25, 1996	EPO				
TH	EP0812088A2	12/10/97	EPO				
TH	WO97/40457	10/30/97	PCT (published application)				

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

TH	Oracle Corporation; Oracle WebServer Architecture; Seshu Adunnthula, Mala Anand, Ankur Sharma; http://www.win.tue.nl/00www/anand.html; 4/1996; retrieved 5/10/00.
TH	Distributed Objects on the Internet: Oracle Web Application Server™ 3.0; Richard Delval-Duarte; http//www.fors.com/eoug97/papers/0504.htm; dated 11/1996; retrieved 5/10/00.
TH	Executive Overview; Oracle Web Application Server™ 3.0; http://www.silexsa.com/oracle/was30_eo.htm; retrieved 5/11/00.
TH	Oracle Web Application Server™ Cartridge User's Guide; Release 3.0; 1996/97.

EXAMINER	DATE CONSIDERED
Tadesse Hailu	7-22-03

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.

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(PTO-1449)

OIPE JC144 DEC 26 2000 PATENT & TRADEMARK OFFICE

RECEIVED DEC 28 2000 TC 2100 MAIL ROOM

ATTY. DOCKET NO.	SERIAL NO.,
50277-1605	**09/676,262**
APPLICANT **Jacobs, et al.**	
FILING DATE **September 28, 2000**	GROUP **2173**

U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
TH	5,715,314	02/03/98	Payne et al.	380	24	10/24/94
	5,724,424	03/03/98	Gifford	380	24	12/16/93
	5,737,592	04/07/98	Nguyen et al.	395	604	06/19/95
	5,737,607	04/07/98	Hamilton et al.	395	701	09/28/95
	5,745,681	04/28/98	Levine et al.	395	200.3	01/11/96
	5,752,246	05/12/98	Rogers et al.	707	10	06/07/95
	5,761,507	06/02/98	Govett	395	684	03/05/96
	5,761,662	06/02/98	Dasan	707	10	12/20/94
	5,761,673	06/02/98	Bookman et al.	707	104	01/31/96
	5,761,684	06/02/98	Gibson	707	515	05/30/95
	5,774,670	06/30/98	Montulli	395	200.57	10/06/95
	5,778,224	07/07/98	Tobe et al.	395	670	01/10/94
	5,796,393	08/18/98	MacNaughton et al.	345	329	11/08/96
	5,802,291	09/01/98	Balick et al.	395	200.32	03/30/95
	5,822,585	10/13/98	Noble et al.	395	680	02/21/95

FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes	Translation No

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

TH	Web Request Broker™ Programmer's Reference Release 3.0; 1996/97.
	~~Oracle Web Application Server™ Overview, Release 3.0~~
TH	Web Application Server 3.0.1 "Overview", published August 14, 1998
TH	Oracle "Developing Your Own Web Application Server™ Cartridge" Release 3.0.1, published August 14, 1998
TH	Oracle Web Application Server™, "Installation Guide for Sun SPARC Solaris 2.x" Release 3.0.1, published August 14, 1998

EXAMINER	DATE CONSIDERED
Tadesse Hailu	7-22-03

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.

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(PTO-1449)

OIPE JC144 DEC 26 2000 PATENT & TRADEMARK OFFICE

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ATTY. DOCKET NO.	SERIAL NO.,
50277-1605	**09/676,262**
APPLICANT **Jacobs, et al.**	
FILING DATE **September 28, 2000**	GROUP **2173**

U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
TH	5,826,239	10/20/98	Du et al.	705	8	12/17/96
	5,826,242	10/20/98	Montulli	705	27	10/06/95
	5,835,712	11/10/98	DuFresne	395	200.33	05/03/96
	5,848,246	12/08/98	Gish	395	200.58	07/01/96
	5,857,102	01/05/99	McChesney et al.	395	653	03/14/95
	5,857,191	01/05/99	Blackwell, Jr. et al.	707	10	07/08/96
	5,859,971	01/12/99	Bittinger et al.	395	200.33	02/15/96
	5,859,972	01/12/99	Subramaniam et al.	395	200.33	05/10/96
	5,860,072	01/12/99	Schofield	707	101	07/11/96
	5,862,318	01/19/99	Habben	395	182.18	10/26/95
	5,862,325	01/19/99	Reed et al.	395	200.31	02/29/96
	5,864,866	01/26/99	Henckel et al.	707	103	03/26/97
	5,864,871	01/26/99	Kitain et al.	707	104	06/04/96
	5,872,969	02/16/99	Copeland et al.	395	671	06/23/95
	5,875,296	02/23/99	Shi et al.	395	188.01	01/28/97

FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes	Translation No

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

TH	Oracle "Using Oracle Web Application Server™ Cartridge" Release 3.0.1, published August 14, 1998
	Oracle "Performance Tuning", "Operating System Parameters (Sun Solaris), published August 14, 1998
	Oracle "Security", "Security Overview", published August 14, 1998
	Oracle Glossary (A-X), published August 14, 1998
	~~Oracle Corporation, WRB API Overview; http://www.cs.vu.nl/~eliens/WWW5/papers/Broker.html~~
	~~Web Application Server 3.0 "Oracle Web Application Server Documentation Roadmap"~~
	~~Oracle Web Application Server™ Installation Guide for Sun SPARC Solaris 2.x , Release 3.0~~

EXAMINER	DATE CONSIDERED
Tadesse Hailu	7-22-03

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.

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(PTO-1449)

OIPE JC144 DEC 26 2000 PATENT & TRADEMARK OFFICE

ATTY. DOCKET NO.	SERIAL NO.,
50277-1605	**09/676,262**

APPLICANT
Jacobs, et al.

FILING DATE	GROUP
September 28, 2000	**2173**

RECEIVED DEC 28 2000 TC 2100 MAIL ROOM

U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
TH	5,890,161	03/30/99	Helland et al.	707	103	10/28/97
	5,894,554	04/13/99	Lowery et al.	395	200.33	04/23/96
	5,897,622	04/27/99	Blinn et al.	705	26	10/16/96
	5,909,492	06/01/99	Payne et al.	380	24	10/24/94
	5,961,601	10/05/99	Iyengar	709	229	06/07/96
	5,991,802	11/23/99	Allard et al.	709	219	11/27/96
	6,070,191	05/30/00	Narendran et al.	709	226	10/17/97
	6,098,093	08/01/00	Bayeh et al.	709	203	03/19/98

FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes	Translation No

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

TH	Luotonen et al., "World-Wide Web proxies", pp 147-154, computer Network and ISDN system, 01/94
	James Powell, "Creating a hypertext library information system," pp. 59-66, 02/94
	Progress Software, "Webspeed 1.0 technical product brief' 1998, Wysiwyg://90/http://www.progress-softwa...ernet/webspeed/white/tech/docs/arch.html.
	Computer Reseller News "Progress Software offers tools to speed use of Web", Oct. 7, 1996 http://proquest.umi.com/pdqweb?TS=91798...&Sid=1&Deli=1&RQT=309&Dtp=1.
	Butler Group Technology Audits, "Butler Group WebSpeed Technology Audit" 1996 http://www.realtime.co.za/webspeed/whitep/wp03.html.
	Netscape "Persistent Client State HTTP Cookies" 1997, http://home.netscape.com/newsref/std/cookie_spec.html.
	M/Gateway Developments Ltd. "Persistence and State Awareness in WebLink" 1996 http://www.intersys.com/products/whitepapers/weblink_state.html.
	Merle, P., et al., *"CorbaWeb: A generic object navigator"*, Computer Networks and ISDN Systems, Vol. 28, No. 11, May 1996, page 1269-1281 VP004018226

EXAMINER	DATE CONSIDERED
Tahir Hafiz	7-22-03

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.

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(PTO-1449)

OIPE JC144 DEC 26 2000 PATENT & TRADEMARK OFFICE

ATTY. DOCKET NO.	SERIAL NO.,
50277-1605	**09/676,262**
APPLICANT **Jacobs, et al.**	
FILING DATE **September 28, 2000**	GROUP **2173**

U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE

RECEIVED DEC 28 2000 TC 2100 MAIL ROOM

FOREIGN PATENT DOCUMENTS

EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes	Translation No

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

	~~KIVA Software Corporation, "Developing and Managing Web-based Enterprise Applications."~~
TH	Web Page containing an article written by Rich Levin titled "NetDynamics To Launch Web Database Development System Upgrade," September 29, 1997 (As printed on 12/11/97).
	Edwards, N., et al., "High security Web servers and gateways," COMPUTER NETWORKS AND ISDN SYSTEMS, vol. 29, no. 8-13, September, 1997, pages 927-938
	Evans, E., et al., "Using Java applets and CORBA for multi-user distributed applications", IEEE INTERNET COMPUTING, vol. 1, no. 3, May, 1997, pages 43-55
	Gray, J., et al.: "Scale Up with TP Monitors," 4465 BYTE, Vol. 20, No. 4, April, 1995
	Szmurlo, Maurice, et al., "A Network of Asynchronous Micro-Servers as a Framework for Server Development," COMPUTER NETWORKS AND ISDN SYSTEMS, Vol. 29, No. 8-13, September 1997

EXAMINER	DATE CONSIDERED
Tadesse Hailu	7-22-03

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.

Exhibit 4

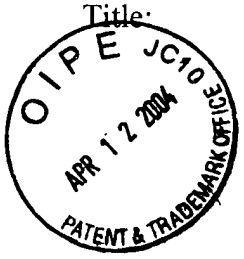
@PFDesktop\::ODMA/MHODMA/HBSR05;iManage;465079;1
RDJ/TAG/dab
04/06/04

PATENT APPLICATION
DOCKET NO.: 1958.2015-000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Thomas W. Nickerson and Martin P. Plotkin		
Application No.:	10/714,738	Group Art Unit:	2131
Filed:	November 17, 2003	Examiner:	Not Assigned
Confirmation No.:	4653		

Title: SYSTEM AND METHOD FOR MANAGING BROWSER SESSIONS IN SINGLE AND MULTI-SERVER WORKFLOW ENVIRONMENTS



CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being facsimile transmitted to the United States Patent and Trademark Office on:

04-08-04 Donna Bartolone
Date Signature

Donna Bartolone
Typed or printed name of person signing certificate

INFORMATION DISCLOSURE STATEMENT

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

Sir:

This Information Disclosure Statement is submitted:

[ ] under 37 CFR 1.129(a), or
(First/Second submission after Final Rejection)

[X] under 37 CFR 1.97(b), or
(Within any one of the following time periods: three months of filing national application (other than a CPA) or date of entry of the national stage in an international application; or before the mailing date of a first office action on the merits in a non-provisional application, including a CPA, or a Request for Continued Examination).

[ ] under 37 CFR 1.97(c) together with either:

[ ] a Statement under 37 CFR 1.97(e), as checked below, or

[ ] a $180.00 fee under 37 CFR 1.17(p), or
(After the 37 CFR 1.97(b) time period, but before final action or notice of allowance, whichever occurs first)

[ ] under 37 CFR 1.97(d) together with:

[ ] a Statement under 37 CFR 1.97(e), as checked below, and

[ ] a $180.00 fee under 37 CFR 1.17(p), or
(Filed after final action or notice of allowance, whichever occurs first, but on or before payment of the issue fee)

[ ] under 37 CFR 1.97(i):
Applicant requests that the IDS and cited reference(s) be placed in the application filewrapper.
(Filed after payment of issue fee)

Statement Under 37 CFR 1.97(e)

[ ] Each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement; or

[ ] No item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

Statement Under 37 CFR 1.704(d) (Patent Term Adjustment)
Applies to original applications (other than design) filed on or after May 29, 2000

[ ] Each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.

[X] Enclosed herewith is form PTO-1449:

[X] Copies of the cited references are enclosed.

[X] Since this application was filed after June 30, 2003, copies of issued U.S. patents and published U.S. applications are not required and are not being provided.

[ ] Copies of the cited references are enclosed except those entered in prior application, U.S. Application No. [ ], to which priority under 35 U.S.C. 120 is claimed. [The earlier application contains copies of the cited references.]

[ ] The listed references were cited in the enclosed International Search Report in a counterpart foreign application.

[ ] The "concise explanation" requirement (non-English references) for reference(s) [ ] under 37 CFR 1.98(a)(3) is satisfied by:

[ ] the explanation provided on the attached sheet.

[ ] the explanation provided in the Specification.

[ ] submission of the enclosed International Search Report.

[ ] submission of the enclosed English-language version of a foreign Search Report and/or foreign Office Action.

[ ] the enclosed English language abstract.

[ ] Applicant requests that the following non-published pending applications be considered:

Examiner's Initials

_____ U.S. Patent Application No. [ ], by [inventor(s)], filed [ ], Docket No.: [ ]

_____ U.S. Patent Application No. [ ], by [inventor(s)], filed [ ], Docket No.: [ ]

_____ U.S. Patent Application No. [ ], by [inventor(s)], filed [ ], Docket No.: [ ]

_____ _____
Examiner Date

[ ] A copy of each above-cited application, including the current claims, is enclosed.

[ ] A copy of each above-cited application, including the current claims, is enclosed, except those entered in prior application, U.S. Application No. [ ], to which priority under 35 U.S.C. 120 is claimed.

The Examiner is requested to return a copy of the above list of pending applications indicating which references were considered with the next office communication.

It is requested that the information disclosed herein be made of record in this application.

Method of payment:

[ ] A check for the fee noted above is enclosed, or the fee has been included in the check with the accompanying Reply. A copy of this Statement is enclosed.

[ ] Please charge Deposit Account 08-0380 in the amount of $[ ]. A copy of this Statement is enclosed.

[X] Please charge any deficiency in fees and credit any overpayment to Deposit Account 08-0380.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By Todd Gerety

Todd A. Gerety
Registration No.: 51,729
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133
Dated: 4/7/04

PTO-1449 REPRODUCED

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

April 6, 2004

(Use several sheets if necessary)



ATTORNEY DOCKET NO.	APPLICATION NO.
1958.2015-000	10/714,738
FIRST NAMED INVENTOR	**FILING DATE**
Thomas W. Nickerson	November 17, 2003
EXAMINER	**CONFIRMATION NO.** / **GROUP**
Not Assigned	4653 / 2131

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	REF. NO.	DOCUMENT NUMBER Number-Kind Code (if known)	ISSUE DATE / PUBLICATION DATE MM-DD-YYYY	NAME OF PATENTEE OR APPLICANT OF CITED DOCUMENT
	AA	5,727,164	03/10/1998	Kaye et al.
	AB	5,870,544	02/09/1999	Curtis
	AC	5,894,554	04/13/1999	Lowery et al.
	AD	5,945,989	08/31/1999	Freishtat et al.
	AE	6,226,642 B1	05/01/2001	Beranek et al.
	AF	6,263,352 B1	07/17/2001	Cohen
	AG	6,266,684 B1	07/24/2001	Kraus et al.
	AH	6,308,275 B1	10/23/2001	Vaswani et al.
	AI	6,415,319 B1	07/2/2002	Ambroziak, J.
	AJ	6,434,578 B1	08/13/2002	McCauley et al.
	AK	6,535,896 B2	3/18/2003	Britton et al.
	AA2	6,594,691 B1	07/15/2003	McCollum et al.
	AB2	6,601,057 B1	07/29/2003	Underwood et al.
	AC2	6,626,958 B1	09/30/2003	McCauley et al.
	AD2	6,668,354 B1	12/23/2003	Chen et al.
	AE2	6,457,030 B1	09/24/2002	Adams et al.
	AF2	6,438,578 B1	08/20/2002	Schmid et al.
	AG2	6,105,004	08/15/2002	Halperin et al.
	AH2	6,493,679 B1	12/10/2002	Rappaport et al.
	AI2	5,873,069	02/16/1999	Reuhl et al.

OTHER DOCUMENTS ***(Including Author, Title, Date, Pertinent Pages, Etc.)***

	AR	Executing Server Script Remotely [online], 2004 [retrieved on 2004-04-07]. Retrieved from the Internet http://msdn.microsoft.com/library/en-us/rmscpt/html/rmscptl.asp?frame=true.
	AS	Enabling Remote Scripting in Client Pages [online], 2004 [retrieved on 2004-04-07]. Retrieved from the Internet http://msdn.microsoft.com/library/en-us/rmscpt/html/rmscpt2.asp?frame=true.

EXAMINER	DATE CONSIDERED

PTO-1449 REPRODUCED	ATTORNEY DOCKET NO.	APPLICATION NO.
INFORMATION DISCLOSURE CITATION IN AN APPLICATION	1958.2015-000	10/714,738
	FIRST NAMED INVENTOR	FILING DATE
April 6, 2004	Thomas W. Nickerson	November 17, 2003
(Use several sheets if necessary)	EXAMINER	CONFIRMATION NO. / GROUP
	Not Assigned	4653 / 2131

OTHER DOCUMENTS *(Including Author, Title, Date, Pertinent Pages, Etc.)*		
	AT	Enabling Remote Scripting in Server Pages [online]. 2004 [retrieved on 2004-04-07]. Retrieved from the Internet http://msdn.microsoft.com/library/en-us/rmscpt/html/rmscpt3.asp?frame=true.

EXAMINER	DATE CONSIDERED

Exhibit 5

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.
10/446,042	05/27/2003	Rajkumar Irudayaraj	ORACP009	1185

51554 7590 12/06/2005

AKA CHAN LLP / ORACLE
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA, CA 95050

EXAMINER	
PATEL, HETUL B	
ART UNIT	**PAPER NUMBER**
2186	

DATE MAILED: 12/06/2005

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

Office Action Summary	Application No.	Applicant(s)	
	10/446,042	IRUDAYARAJ, RAJKUMAR	
	Examiner	Art Unit	
	Hetul Patel	2186	

-- 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 03 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 *28 November 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) *1-15* 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) *1-15* 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 *28 November 2005* 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.

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

DETAILED ACTION

1. Claims 1-15 are presented for examination.

Specification

2. The attempt to incorporate subject matter into this application by reference to related applications is ineffective because the reference documents are not clearly identified as required by 37 CFR 1.57(b)(2)).

Claim Rejections - 35 USC § 101

3. Claims 6-7, 13 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 6-7, 13 and 14 are not limited to tangible embodiments. In view of applicants' disclosure, specification page 9, lines 12-13 and claims 7 and 14, the computer readable medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., CD-ROM, floppy disk, tape, flash memory, system memory, hard drive) and intangible embodiments (e.g. data signal embodied in a carrier wave). As such, these claims are not limited to statutory subject matter and are therefore non-statutory.

Claim Rejections - 35 USC § 102

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 –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bhide et al. (USPN: 5,852,717) hereinafter, Bhide.

As per claim 1, Bhide teaches a method of caching connections to a resource (i.e. a server), comprising: receiving a request for a connection to the resource, wherein the request does not indicate whether the connection to the resource should be obtained from the cache or opened to the resource (i.e. step 352 in Fig. 6); determining if available connections are stored in a cache (i.e. steps 354 and 356 in Fig. 6); and obtaining the connection to the resource from the cache if available connections are stored in a cache (i.e. step 360 in Fig. 6) (e.g. see Fig. 6 and Col. 6, lines 46+).

As per claims 6 and 13, see arguments with respect to the rejection of claim 1. Claims 6 and 13 also rejected based on the same rationale as the rejection of claim 1.

As per claim 2, Bhide teaches the claimed invention as described above and furthermore, Bhide teaches that the method further comprising obtaining the connection to the resource by opening the connection if available connections are not stored in a cache (i.e. step 358 in Fig. 6) (e.g. see Fig. 6 and Col. 6, lines 54+).

As per claim 3, Bhide teaches the claimed invention as described above and furthermore, Bhide teaches that determining if available connections are stored in a cache comprises analyzing a property of the resource, i.e. by determining if connection caching will improve the performance and this determination is made from many factors/properties (e.g. see Col. 6, lines 53-62 and Col. 7, lines 1-10).

As per claim 4, Bhide teaches the claimed invention as described above and furthermore, Bhide teaches that the method further comprising initializing the cache if available connections are stored in a cache and this is a first request for a connection to the resource (i.e. step 364 in Fig. 6) (e.g. see Fig. 6 and Col. 7, lines 11+).

As per claim 5, Bhide teaches the claimed invention as described above and furthermore, Bhide teaches that the resource is a database (i.e. the server) (e.g. see the abstract).

As per claims 7 and 14, Bhide teaches the claimed invention as described above and furthermore, Bhide teaches that the computer readable medium is a CD-ROM, floppy disk, tape, flash memory, system memory or hard drive (e.g. see Col. 4, lines 38-42).

As per claim 8, Bhide teaches a database system, comprising: a database (i.e. a server 256 in Fig. 4) that stores information; a cache (i.e. the connection cache embedded in the agent 260 in Fig. 4) that stores connections to the database (e.g. see the abstract and Fig. 4). The further limitations are also taught by Bhide as described in the rejection of claim 1 above.

As per claim 9, see arguments with respect to the rejection of claims 2 and 3. Claim 9 is also rejected based on the same rationale as the rejection of claims 2 and 3.

As per claim 10, Bhide teaches the claimed invention as described above and furthermore, Bhide teaches about receiving a first request from a client to open a single network connection to the server, i.e. the request does indicate whether the connection

to the resource should be obtained from the cache or opened to the resource (e.g. see Col. 2, lines 35-36).

As per claims 11-12, see arguments with respect to the rejection of claims 4 and 5, respectively. Claims 11-12 are also rejected based on the same rationale as the rejection of claims 4 and 5, respectively.

As per claim 15, see arguments with respect to the rejection of claims 8 and 9. Claim 15 is also rejected based on the same rationale as the rejection of claims 8 and 9.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hetul Patel whose telephone number is 571-272-4184. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 571-272-4182. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBP
HBP

MATTHEW D. ANDERSON
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 10/446,042	Applicant(s)/Patent Under Reexamination IRUDAYARAJ, RAJKUMAR	
	Examiner Hetul Patel	Art Unit 2186	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,852,717	12-1998	Bhide et al.	709/203
	B	US-5,894,554	04-1999	Lowery et al.	709/203
	C	US-6,415,335	07-2002	Lowery et al.	710/5
	D	US-2002/0184123	12-2002	Sijacic et al.	705/34
	E	US-2003/0028580	02-2003	Kucherawy, Murray	709/101
	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	
	V	
	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.

Index of Claims

Application/Control No.	Applicant(s)/Patent under Reexamination
10/446,042	IRUDAYARAJ, RAJKUMAR
Examiner	**Art Unit**
Hetul Patel	2186

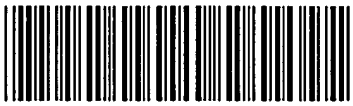
√	Rejected	–	(Through numeral) Cancelled	N	Non-Elected	A	Appeal
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Claim		Date
Final	Original	12/5/05
	1	√
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Search Notes



Application/Control No.	Applicant(s)/Patent under Reexamination	
10/446,042	IRUDAYARAJ, RAJKUMAR	
Examiner	**Art Unit**	
Hetul Patel	2186	

SEARCHED			
Class	Subclass	Date	Examiner
711	118	12/5/2005	HBP
709	219	12/5/2005	HBP
	229	12/5/2005	HBP

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR
EAST	12/5/2005	HBP

Exhibit 6

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

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

On December 9, 2005

TOWNSEND and TOWNSEND and CREW LLP

By: [signature]

PATENT

Attorney Docket No.: 021756-015800US
Client Reference No.: OID-2005-241-01

TPW

OIPE
DEC 12 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Examiner: Philip B. TRAN
Marc S. CASALAINA	Art Unit: 2155
Application No.: 09/615,383	INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR §1.97 and §1.98
Filed: July 13, 2000	
For: Delta Caching	

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

Sir:

The references cited on attached form PTO/SB/08A&B are being called to the attention of the Examiner. Copies of the references [in compliance with the requirements of 1287 OG 163] are enclosed.

It is respectfully requested that the cited references be expressly considered during the prosecution of this application, and the references be made of record therein and appear among the "references cited" on any patent to issue therefrom.

As provided for by 37 CFR 1.97(g) and (h), no inference should be made that the information and references cited are prior art merely because they are in this statement and no

12/13/2005 MBERHE 00000038 201430 09615383
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representation is being made that a search has been conducted or that this statement encompasses all the possible relevant information.

This IDS is being filed before the mailing date of the final Office Action or Notice of Allowance.

Please charge the IDS fee of $180 to Deposit Account No. 20-1430. Please deduct any additional fees from, or credit any overpayment to, the above-noted Deposit Account.

Respectfully submitted,

Dated: 12/9/05

Brian N. Young
Reg. No. 48,602

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
BNY/

60643635 v1

DEC 12 2005 IAP65 PATENT & TRADEMARK OFFICE

PTO/SB/08A&B (08-03)

Substitute for form 1449A&B/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 3

Complete if Known	
Application Number	09/615,383
Filing Date	July 13, 2000
First Named Inventor	Marc S. CASALAINA
Art Unit	2155
Examiner Name	Philip B. TRAN
Attorney Docket Number	021756-015800US

U.S. PATENT DOCUMENTS+

Examiner Initials*	Cite No.[1]	Document Number Number Kind Code[2] (*if known*)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	AA	US-5,873,069	02-16-1999	Reuhl et al.	
	AB	US-5,870,544	02-09-1999	Curtis	
	AC	US-5,894,554	04-13-1999	Lowery et al.	
	AD	US-5,945,989	08-31-1999	Freishtat et al.	
	AE	US-6,052,730	04-18-2000	Felciano et al.	
	AF	US-6,092,074	07-18-2000	Rodkin et al.	
	AG	US-6,105,004	08-15-2004	Halperin et al.	
	AH	US-6,122,661	09-19-2000	Stedman et al.	
	AI	US-6,226,642	05-01-2001	Britton et al.	
	AJ	US-6,226,792	05-01-2001	Goiffon et al.	
	AK	US-6,263,352	07-17-2001	Cohen	
	AL	US-6,266,684	07-24-2001	Kraus et al.	
	AM	US-6,308,275	10-23-2001	Vaswani	
	AN	US-6,415,319	07-02-2002	Ambroziak	
	AO	US-6,434,578	08-13-2002	McCauley et al.	
	AP	US-6,438,578	08-20-2002	Schmid et al.	
	AQ	US-6,457,030	09-24-2002	Adams et al.	
	AR	US-6,493,679	12-10-2002	Rappaport et al.	
	AS	US-6,594,691	07-15-2003	McCollum et al.	
	AT	US-6,601,057	07-29-2003	Underwood et al.	
	AU	US-6,668,354	12-23-2003	Chen et al.	
	AV	US-6,760,750	07-06-2004	Boneh et al.	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] (*if known*)	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]
						☐

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]
	AW	JENKS, KEN, Re: "Re: JavaScript Calling CGI Script," in comp.lang.javascript, February 16, 2000, downloaded from < http://groups.google.com/group/comp.lang.javascript/msg/343ea4daa298e8df?hl=en&>	
	AX	QUANTZ, LARRY, "need help with 'merging' two html files together," in comp.lang.javascript, February 6, 2000, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/1f890780cb6c22e6?hl=en&>	

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.

[1] Applicant's unique citation designation number (optional). [2] Applicant is to place a check mark here if English language Translation is attached.

OIPE IAP65 DEC 12 2005 PATENT & TRADEMARK OFFICE

PTO/SB/08A&B (08-03)

Substitute for form 1449A&B/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 2 of 3

Complete if Known	
Application Number	09/615,383
Filing Date	July 13, 2000
First Named Inventor	Marc S. CASALAINA
Art Unit	2155
Examiner Name	Philip B. TRAN
Attorney Docket Number	021756-015800US

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]
	AY	WILKINSON, BILL, "Re: Response Redirect," in Microsoft.public.inetserver.asp.general, February 3, 2000, downloaded from <http://groups.google.com/group/microsoft.public.inetserver.asp.general/msg/8dd026d00167fd14?hl=en&>	
	AZ	JENKS, KEN, "Re: Submitting all forms within a HTML-page?" in comp.lang.javascript, November 22, 1999, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/d4654b5ac56a42b2?hl=en&>	
	BA	BEILBY, JAMES, "Re: Help me I'm dumb" in comp.lang.javacript, September 18, 1999, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/8e7c1ab6c5868e48?hl=en&>	
	BB	PAYNE, PATRICK, "Re: Web Development - the future or a sideline?" in comp.lang.javascript, August 23, 1999, downloaded from <http://groups.google.com/group/comp.databases.pick/msg/e55f8bb165bbec36?hl=en&>	
	BC	ZIGRAY, DAVID, "Web Development – the future or a sideline? – NOW!" in comp.databases.pick, August 25, 1999, downloaded from <http://groups.google.com/group/comp.databases.pick/msg/772b10140e56fe47?hl=en&>	
	BD	STORMS, IAN A., "Re: Connecting to Database!!!" in comp.lang.javascript, August 17, 1999, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/5536270d890750fc?hl=en&>	
	BE	GREENWOOD, TONY, "Re: Help! Passing vars between Perl and JavaScript," in comp.lang.javascript, May 18, 1999, downloaded from "http://groups.google.com/group/comp.lang.javascript/msg/d6d6e18ddd89b282?hl=en&"	
	BF	GREENWOOD, TONY, "Re: receiving parameters," in comp.lang.javascript, March 22, 1999, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/88b9dd5f7f502e0d?hl=en&>	
	BG	GREESON, ROY et al., "Is this possible with Client-Side Java?" in comp.lang.javascript, March 20, 1999, downloaded from <http://groups.google.com/group/comp.lang.javascript/browse_thread/thread/3788f12a16af547f/2446b8a8bd23e1aa#2446b8a8bd23e1aa>	
	BH	STORMS, IAN A., "Re: the efficiency of JavaScript Variables," in comp.lang.javascript, January 25, 1999, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/5912db735c7685e8?hl=en&>	
	BI	SIGIROS, ANGELO, "Re: passing data: frame1>server>frame2 how???" in netscape.devs-javascript, January 8, 1999, downloaded from <http://groups.google.com/group/netscape.devs-javascript/msg/921acdc6f9d30ce4?hl=en&>	
	BJ	HONNEN, MARTIN, "Re: JavaScript polling a servlet/cgi," in borland.public.intrabuilder.javascript, October 9, 1998, downloaded from <http://groups.google.com/group/borland.public.intrabuilder.javascript/msg/4b70e4bc473fc93a?hl=en&>	
	BK	ZANDSTRA, MATT, "Re: passing variables," in comp.lang.javascript, August 12, 1998, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/c8f282bf26253864?hl=en&>	
	BL	BRODERICK, ANDREW, "Re: Sub Drop Down List," in microsoft.public.vinterdev, July 1, 1998, downloaded from <http://groups.google.com/group/microsoft.public.vinterdev/msg/74b1b9fafd6e9f89?hl=en&>	
	BM	FREEDMAN, RICHARD, "Re: Passing complex structure (binary tree) from java to javascript," in comp.lang.javascript, April 16, 1998, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/84988957fc822ec5?hl=en&>	
	BN	VALLEY, THOMAS, "Re: Opening a URL in the background," in netscape.devs-javascript, March 19, 1998, downloaded from <http://groups.google.com/group/netscape.devs-javascript/msg/72126c9d8cc41723?hl=en&>	

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.

[1] Applicant's unique citation designation number (optional). [2] Applicant is to place a check mark here if English language Translation is attached.

DEC 12 2005
PATENT & TRADEMARK OFFICE

PTO/SB/08A&B (08-03)

Substitute for form 1449A&B/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 3 of 3

Complete if Known	
Application Number	09/615,383
Filing Date	July 13, 2000
First Named Inventor	Marc S. CASALAINA
Art Unit	2155
Examiner Name	Philip B. TRAN
Attorney Docket Number	021756-015800US

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]
	BO	SEGURA, ALVARO, 'Re: Client JScript talking to Server," in comp.lang.javascript, March 18, 1999, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/0afe1f53f594aa1b?hl=en&>	
	BP	JENKS, KEN, "Re: Can you call a Java Servlet through javascript?" in comp.lang.javascript, January 6, 2000, downloaded from <http://groups.google.com/group/comp.lang.javascript/msg/249ef5feb780b97e?hl=en&>	
	BQ	NEWTON, STUART, "Re: Problem on variables – Need your help!" in microsoft.public.inetserver.iis.activeserverpages, January 12, 2000, downloaded from <http://groups.google.com/group/microsoft.public.inetserver.iis.activeserverpages/msg/45daf823b1585941?hl=en&>	
	BR	CAMDEN, RAY, "Creating a 'Live' ColdFusion Site," ColdFusion Developer's Journal, January 12, 1999, downloaded from <http://cfdj.sys-con.com/read/41481.htm>	
	BS	JALIX.ORG, "The Dynamic Duo – Cross-Browser Dynamic HTML," November 11, 1999, downloaded from <http://www.jalix.org/ressources/internet/dhtml/_dynduo/dynduo-19991024.pdf>	
	BT	Schwartz, "Chapter 20 – VBScript Forms, Controls, and Managing Transactions," Special Edition Using Visual Basic Script, QUE Corporation, 1996, downloaded from < http://www.urc.bl.ac.yu/manuals/vbscript/ch20fi.htm>	
	BU	Baron, J., & M. Siepmann, "Techniques for Creating and Using Web Questionnaires in Research and Teaching," in Psychological Experiments on the Internet (M. H. Birnbaum (Ed.) (2000), downloaded from <http://www.psych.upenn.edu/~baron/examples/baron4.htm>	
	BV	Remote Scripting, "http://msdn.microsoft.com/scripting/remotescripting..." Microsoft Corporation (January 4, 2000)	

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.

[1] Applicant's unique citation designation number (optional). [2] Applicant is to place a check mark here if English language Translation is attached.

Exhibit 7

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Exhibit 8

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Exhibit 9

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Exhibit 10

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Exhibit 11

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Exhibit 12

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Exhibit 13

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

- - - -

ORACLE CORPORATION and ORACLE U.S.A. INC.,	)	
Plaintiffs,	)	
	)	C.A. No. 06-cv-414
-vs-	)	(SLR)
EPICREALM LICENSING, LP,	)	
Defendant.	)	

- - - -

VIDEOTAPED DEPOSITION OF:
MICHAEL SHAMOS, Ph.D., J.D.

- - - -

DATE: June 30, 2008
Monday, 9:12 a.m.

LOCATION: JONES DAY
One Mellon, 31st Floor
500 Grant Street
Pittsburgh, PA 15219

TAKEN BY: Defendant

REPORTED BY: Heidi H. Willis, RPR, CRR
Notary Public
Reference No. HW07873

balancing it didn't get from these patents.
Q. In your view is there any secondary consideration that points in any way to nonobviousness of any of the asserted claims?
A. I don't recall that there is. You know, you can make a list of them. I'm sure they were elaborately listed in Dr. Finkel's report. I remember looking at them and not being concerned at any of them. There can't be secondary considerations of nonobvious when the whole invention is anticipated. There's no such thing as nonobvious if it's anticipated.
Q. Does that mean you can ignore the secondary considerations in your obviousness analysis?
A. No. It means that the secondary considerations are unlikely to be applicable, because the entire art already knew of these things. So there can't be anything about it that's not obvious.
So if you point to increased sales, for example, it didn't come from this, it may have come from something else. Long-felt need, there was no long-felt need. The need was satisfied very rapidly, et cetera, et

cetera. We can go through each one of the long, lengthy catalog of secondary considerations. None are applicable.
Q. Did you consider in reaching your conclusions in this case a report by a Dr. Chen?
A. I read it. I can't say that it affected my conclusions or that my conclusions were based upon it or relied upon it. I did read it. I read it with amusement. I agree with him. Ask me what you will.
Q. When you say you read it with amusement, why do you say that?
A. Because he's not a native speaker of the English language, and I say that many of the sentences in there were inartfully expressed, as was even the title of his report, and so it caused a chuckle, but he was right in his conclusions.
Q. What conclusions was he right about?
A. The conclusion was that this -- I think the words were very close to this -- patent would hardly be enforceable, these patents would hardly be enforceable.
Q. Did you review Dr. Chen's deposition testimony in this case?

A. I don't think I did.
Q. Are you aware that Dr. Chen is not a patent attorney?
A. I don't think that has any relevance at all. I didn't rely on his opinion. I just said that I agree with that. One might wonder why folks are soliciting patentability or enforceability opinions from non-patent attorneys.
Q. Were you aware that Dr. Chen did not identify any claim construction for his analysis?
A. I was aware of that. His report was brief.
Q. Is that a problem in your view?
A. I don't understand the context in which it would be a problem. I don't rely on his report, and so it's not a problem for me. The only party in the whole world I can imagine it being a problem for is epicRealm.
Q. Why do you say that?
A. Because he concluded the patents weren't enforceable and you went out and tried to enforce the patents, that why.
Q. Are you aware that Dr. Chen testified that he couldn't say that he had even reviewed the file histories of the patents?

MR. ARTUZ: Objection, assumes facts, lacks foundation.
A. It doesn't matter whether I'm aware of it or not. I haven't relied on his report.
Q. Why not?
A. Because I came to my own conclusion. There's no need for me to rely on his report. His report was brief. My report is long.
Q. Do you believe his report was competent?
MR. ARTUZ: Objection, vague, calls for a legal conclusion.
A. It certainly does not rise to the standards that one would expect of an attorney being asked to give an enforceability report or a validity report, no. Whether it was competent based on what he was asked to do, I don't know how the task was phrased. I don't know how he was chosen as the person to make the report.
My impression was that it was believed that he was someone of skill in the art, not a patent attorney, and they were asking does this sound new to you given what you know of the art.
Q. Do you know of any prior art references that disclose dispatching using metric-based load

balancing?
MR. ARTUZ: Objection, vague.
A. Yes.
Q. What reference?
A. Well, I have references to least-loaded servers in my -- in Exhibit 3. If we go down, look for load balancing, any time there's load balancing, there's a description of how it does the load balancing and there's discussion of messaging going back and forth between the dispatcher and the page servers where they are reporting their load. That to me is metric-based load balancing.
Q. Can you identify for me which specific references you believe disclose dispatching using metric-based load balancing?
MR. ARTUZ: Objection, vague.
A. I probably can, and I'm going to give it a try. Load balancing is taught in Ingham W3 objects.
Q. Can I interrupt for just one second?
A. Yes.
Q. Was that metric-based load balancing? You just said load balancing.
MR. ARTUZ: Objection, vague.

A. Yeah, I believe so. I mean I have to go back to the reference, but I believe it is metric-based load balancing.
Q. Okay. Any others?
- - - -
(There was a discussion off the record.)
- - - -
A. I can't tell quickly from the search, the search that I'm doing in this exhibit. I have to spend more time looking at it. I'm searching for a particular phrase. If I didn't use that particular phrase in the exhibit, then I can't -- I can't find it so --
I'm looking at -- in the report proper. It will take some time.
Q. Okay.
A. Yes, so in Oracle 2 -- sorry, Oracle 1 with SQL*NET release 2.3, it says that the listener passes the address of the least used dispatcher to the client, least used is you are doing a minimum of numbers which is metric-based, for example, and there may be others.
MR. ARTUZ: I'm going to object as the question calls for a narrative as well.

A. In any case, as I've said before, the dispatching limitation can be met without metric load balancing or, in fact, without load balancing at all.
Q. My question is whether you are aware of references that disclose dispatching using metric-based load balancing. You've identified a couple. Are there any others?
MR. ARTUZ: Objection, vague, calls for a narrative.
A. I'm not finding any others. I'm halfway through my -- so the problem here is that in anticipation I have to look at the entire claim. There are certainly numerous prior references that teach metric load balancing by itself but not necessarily in combination with all of the other steps required in any of the claim -- any claim of the patent. So I haven't found any others. I'm almost through it now. No, no others.
Q. No others?
A. No.
MR. ARTUZ: If you can guys can wrap it up pretty soon, that would be great.
Q. Dr. Shamos, did you discuss your testimony

during any of the breaks today?
A. No.
Q. What did you do to prepare for your deposition today?
A. I had meetings with counsel. We met on Thursday and Friday and again on Sunday. The meeting on Sunday was joint with counsel for the Texas Defendants. I reviewed my report, Dr. Finkel's report, various documents, claim constructions. Other than that, that was the preparation.
MR. PATRAS: Okay. Thank you for your time today, Dr. Shamos. We have no further questions.
THE WITNESS: It's been most pleasant even given the circumstances. Thank you.
MR. ARTUZ: We'll conclude the deposition.
THE VIDEOGRAPHER: This deposition is now concluded. The time indicated on the screen is 6:19 p.m.
- - - -
(The proceedings were concluded at 6:19 p.m.)
- - - -

Exhibit 14

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Exhibit 15

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Exhibit 16

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Exhibit 17

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ORACLE CORPORATION and ORACLE U.S.A. INC., **Plaintiffs,** **v.** **EPICREALM LICENSING, LLC,** **Defendant.**	**C.A. No. 06-cv-414 (SLR)**
AND RELATED COUNTERCLAIMS	

REPORT OF PLAINTIFFS' EXPERT MICHAEL I. SHAMOS, PH.D, J.D. CONCERNING INVALIDITY

BACKGROUND & QUALIFICATIONS

1. My name is Michael I. Shamos. I hold the title of Distinguished Career Professor in the School of Computer Science at Carnegie Mellon University in Pittsburgh, Pennsylvania. I was a founder and Co-Director of the Institute for eCommerce at Carnegie Mellon and I now direct a graduate degree program in eBusiness Technologies. My résumé is attached as Exhibit 2 to this report.

2. I currently teach graduate courses at Carnegie Mellon in Electronic Commerce, including eCommerce Technology, Electronic Payment Systems, Electronic Voting and eCommerce Law and Regulation and have done so since 1999. In Fall 2007 I taught a new course entitled Law of Computer Technology.

every claim is anticipated under one or more of epicRealm's varieties of "releasing." Every one of the references in Exhibit 3 utilizes implicit releasing in addition to any releasing it may perform under epicRealm's contentions.

e. "intercepting"

92. The Texas Court has construed "intercepting said request at said Web server" to mean "intercepting the handling of a request at a Web server."[5] It is my understanding that epicRealm has proposed the same construction for 'intercepting' in this action. This construction clarifies that intercepting involves not only redirecting the request itself, but also the processing (handling) of the request. My analysis below is also consistent with Oracle's proposed construction for the term "intercepting," namely, "receiving a request at the Web server and diverting the request before the Web server executable can process the request."

93. Intercepting is important to maintain server throughput. If a web server must spend any significant time analyzing a request before determining that it cannot handle the request, its efficiency will be diminished. It is therefore desirable to intercept such requests, ideally before they are even processed by the server.

94. Intercepting is inherent in any system in which the Web server processes some but not all, requests. Some mechanism must be used to discriminate between the requests the Web server will handle and which it will not. That mechanism which prevents the Web server from handling certain requests "intercepts" their handling within the Texas Court's construction.

95. Intercepting the handling of requests was well known in the prior art, as discussed in connection with Eckerson, above. Intercepting CGI requests (used to generate dynamic web pages) is taught in reference 166, Bittinger et al. U.S. Patent 5,754,774: "This web server originated communication is intercepted by the server-side intercept module 40 and transformed by a client/server specific data stream." (10:12-14). "After receiving the information from the client-side intercept module 30, the server-side intercept module 40 checks its server cache resident in the second computer to determine if a server cache entry exists corresponding to the

[5] There is a parallel construction for "intercepting said request at said HTTP-compliant device."

single page server is available. It is my opinion that systems having only a single page server cannot satisfy the limitation of "dispatching."

104. My opinion on this point is bolstered by the fact that in the case of a single page server there is no need to examine the request to determine which page server should process the request. The request must be examined to learn whether a dynamic page is being sought, but that examination is not performed a part of dispatching, but intercepting, which is recited as a separate step. My opinion is further bolstered by the fact that in a configuration having only a single page server, there is no "dynamic information maintained about page servers" which can be used to inform the choice of page server, since there is never more than one option.

105. Nevertheless, epicRealm has accused certain systems having only a single page server of infringing claims containing dispatching limitations. Therefore, I will assume for purposes of invalidity analysis that prior art references teaching only a single page server also teach dispatching, which I will refer to as "Single-Server Dispatching."

106. Under epicRealm's proposed construction, dispatching requires consideration of dynamic information maintained about page servers. Dynamic information is information that can change and is not an inherent feature of the architecture. Information does not need to change on a minute-to-minute basis to be dynamic. Some systems maintain files, sometimes referred to as configuration files, which maintain information about page servers such as their network addresses and the resources available to them. These configuration files can be changed at any time, and the test for use of dynamic information is not the frequency with which the information changes, but whether a change to the configuration file affects the choice of page server made by the dispatcher. Because epicRealm has accused of infringement certain systems which make use of configuration files for dispatching, for purposes of invalidity analysis I will adopt epicRealm's contention and will refer to such dispatching herein as "Configuration File Dispatching."

107. Dispatcher processes are taught in reference 104, "Web Server Technology" at pp. 151-153. A dispatcher process is one that selects a "helper process" to perform a task. The

EXHIBIT 18

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Exhibit 19

United States Patent and Trademark Office

Performance and Accountability Report

Fiscal Year 2007



accountability



innovation



results

creativity



global



Transforming for the Future Today

TABLE 13A

EX PARTE REEXAMINATION (FY 2003 - FY 2007)

ACTIVITY	2003	2004	2005	2006	2007
Requests filed, total	**392**	**441**	**524**	**511**	**643**
By patent owner	136	166	166	129	124
By third party	239	268	358	382	519
Commissioner ordered	17	7	-	-	-
Determinations on requests, total[1]	**381**	**419**	**537**	**458**	**594**
Requests granted:					
By examiner	360	408	509	422	575
By petition	1	-	2	5	2
Requests denied	20	11	26	31	17
Requests known to have related litigation	**109**	**138**	**176**	**229**	**369**
Filings by discipline, total	**392**	**441**	**524**	**511**	**643**
Chemical	124	130	138	118	133
Electrical	118	156	188	228	275
Mechanical	150	155	198	165	235

[1] *Past years' data have been revised from prior year reports.*

TABLE 13B

INTER PARTES REEXAMINATION (FY 2003 - FY 2007)

ACTIVITY	2003	2004	2005	2006	2007
Requests filed, total	**21**	**27**	**59**	**70**	**126**
Determinations on requests, total	**20**	**25**	**57**	**47**	**119**
Requests granted:	18	25	54	43	118
By examiner	18	25	54	43	118
By petition	-	-	-	-	-
Requests denied	2	-	3	4	1
Requests known to have related litigation	**7**	**5**	**29**	**32**	**81**
Filings by discipline, total	**21**	**27**	**59**	**70**	**126**
Chemical	3	6	17	17	30
Electrical	7	7	20	27	53
Mechanical	11	14	22	26	43