#### UNITED STATES PATENT AND TRADEMARK OFFICE

#### BEFORE THE PATENT TRIAL AND APPEAL BOARD

HEWLETT-PACKARD COMPANY, Petitioner

v.

YYZ, LLC, Patent Owner

CBM No. Unassigned

PETITION FOR COVERED BUSINESS METHOD PATENT REVIEW UNDER 35 U.S.C. § 321 and § 18 of the AMERICA INVENTS ACT

U.S. PATENT NO. 7,062,749

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	Ex. 1016	Chane Cullens Affidavit for Bristol's Application for the

	Trademark "eSleuth" signed May 16, 2001
Ex. 1017	MQSeries Primer, IBM MQSeries EAI Center, October 1999 ("MQSeries Primer")
Ex. 1018	Using the IBM MQSeries Integrator Version 1.0, IBM International Technical Support Organization, SG24-5386-00, May 1999 ("MQSeries Integrator 1.0 Reference")
Ex. 1019	Oracle8i, Application Developer's Guide - Advanced Queuing, Release 8.1.5, February 1999 ("Oracle 8i Guide")
Ex. 1020	D. Linthicum, <u>Enterprise Application Integration</u> , Addison-Wesley Longman, Copyright 2000 ("Linthicum")
Ex. 1021	Y. Hoffner, Monitoring in Distributed Systems, ANSA Architecture Report, October 25, 1994 ("Hoffner")
Ex. 1022	MQSeries Integrator, Using the Control Center, Version 2 Release 0, SC34-5602-00, First edition, March 2000 ("MQSeries Control Center")
Ex. 1023	MQSeries Integrator, Introduction and Planning, Version 2.0, GC34-5599-00, First edition, April 2000 ("MQSeries Planning")
Ex. 1024	MQSeries Integrator, Programming Guide, Version 2.0, SC34- 5603-00, First edition, April 2000 ("MQSeries Programming")
Ex. 1025	MQSeries Integrator, Messages, Version 2, GC34-5601-00, First edition, April 2000 ("MQSeries Messages")
Ex. 1026	MQSeries for Windows NT, Quick Beginnings, Version 5.1, GC34-5389-00, First edition, March 1999 ("MQSeries Quick Beginnings")
Ex. 1027	Van de Putte et al., Business Integration Solutions with MQSeries Integrator, IBM RedBooks, SG24-6154-00, August 2000 ("IBM Redbook")
Ex. 1028	M43 – Introduction to Business Integration & Message Brokers, IBM MQSeries Technical Conference, June 2000 ("IBM

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