01576 U.S. PTO
042205

Docket No. 3125-4003US1

Express Mail No. EV 460 047 160 US

27123
↑CUSTOMER NUMBER↑

113255 U.S. PTO
11/112990
042205

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

UTILITY APPLICATION AND FEE TRANSMITTAL §(1.53(B))

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

Sir:

Transmitted herewith for filing is the patent application of

Inventor(s) names and addresses:

(1) Keith R. McNally
5104 Seagrove Cove
San Diego, CA 92130

(2) William H. Roof
13429 Luckett Court
San Diego, CA 92130

(3) Richard Bergfeld
20719 Nashville Street
Chatsworth, CA 91311

☐ Additional inventors are listed on a separate sheet

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

Enclosed Are:

30 page(s) of specification
1 page(s) of Abstract
6 page(s) of claims
8 sheets of ☒ Formal ☐ Informal drawings
6 page(s) of Declaration and Power of Attorney

- ☐ Unsigned
- ☐ Newly Executed
- ☒ Copy from prior application
- ☐ Deletion of inventors including Signed Statement under 37 C.F.R. §1.63(d)(2)

☐ **REQUEST AND CERTIFICATION UNDER 35 U.S.C. §122(b)(2)(B)(i) (form PTO/SB/35)**
As indicated on the attached Request and Certification, Applicant(s) certify that the invention disclosed in the attached application HAS NOT and WILL NOT be the subject of an application filed in another

country, or under a multilateral agreement, that requires publication at eighteen months after filing. Applicant(s) therefore request(s) that the attached application NOT be published under 35 U.S.C. §122(b).

☒ Incorporation by Reference:
- ☒ The entire disclosure of the prior application, from which a copy of the combined Declaration and Power of Attorney is supplied herein, is considered as being part of the disclosure of the accompanying application and is incorporated herein by reference.

☐ Deletion of Inventors (37 C.F.R. §1.63(d) and §1.33(b)

Signed statement attached deleting inventor(s) named in the prior application serial no. _____, filed _____.

☐ Microfiche Computer Program (Appendix)
- ☐ page(s) of Sequence Listing
- ☐ computer readable disk containing Sequence Listing
- ☐ Statement under 37 C.F.R. §1.821(f) that computer and paper copies of the Sequence Listing are the same

☒ Assignment Papers (assignment cover sheet and assignment documents)
- ☐ A check in the amount of $40.00 for recording the Assignment
- ☐ Charge the Assignment Recordation Fee to Deposit Account No. 13-4500, Order No. _____.
- ☒ Assignment Papers filed in the parent application Serial No. 09/400,413

☐ Certification of chain of title pursuant to 37 C.F.R. §3.73(b)

☐ Priority is claimed under 35 U.S.C. §119 for:
Application No(s). _____, filed _____, in _____ (country).
- ☐ Certified Copy of Priority Document(s) [_____]
  - ☐ filed herewith
  - ☐ filed in application Serial No. _____, filed _____.
- ☐ English translation document(s) [_____]
  - ☐ filed herewith
  - ☐ filed in application Serial No. _____, filed _____.

☐ Priority is claimed under 35 U.S.C. §119(e) for:
Provisional Application No. _____, filed _____.

☐ Information Disclosure Statement
- ☐ Copy of [_____] cited references
- ☐ PTO Form-1449
- ☐ References cited in parent application Serial No. _____, filed _____.

☐ Related Case Statement under 37 C.F.R. §1.98(a)(2)(iii)
- ☐ A copy of related pending U.S. Application(s) Serial No(s): _____, filed _____, respectively, is attached hereto.
- ☐ A copy of related pending U.S. Application(s) entitled, _____, filed _____ to inventor(s) _____, respectively, is attached hereto.
- ☐ A copy of each related application(s) was submitted in parent application serial no. _____, filed _____.

☒ Preliminary Amendment

☒ Return receipt postcard (MPEP 503)

☒ This is a ☒ continuation ☐ divisional ☐ continuation-in-part of prior application serial no. 10/016,517, filed November 1, 2001, which is a continuation-in-part of application serial no. 09/400,413, filed September 21, 1999, to which priority under 35 U.S.C. §120 is claimed.

☐ Cancel in this application original claims _____ of the parent application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

☒ A Preliminary Amendment is enclosed. (Claims added by this Amendment have been properly numbered consecutively beginning with the number following the highest numbered original claim in the prior application).

☐ The status of the parent application is as follows:

☐ A Petition for Extension of Time and a Fee therefor has been or is being filed in the parent application to extend the term for action in the parent application until _____.

☐ A copy of the Petition for Extension of Time in the co-pending parent application is attached.

☐ No Petition for Extension of Time and Fee therefor are necessary in the co-pending parent application.

☐ Please abandon the parent application at a time while the parent application is pending or at a time when the petition for extension of time in that application is granted and while this application is pending has been granted a filing date, so as to make this application co-pending.

☐ Transfer the drawing(s) from the parent application to this application

☒ Amend the specification by inserting before the first line the sentence:
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I. CALCULATION OF APPLICATION FEE				
Basic Fee ($300/$150)				$ 150.00
Examination Fee ($200/$100)				$ 100.00
Search Fee ($500/$250)				$ 250.00
	Number Filed	Number Extra	Rate	
Total Claims	102 - 20 =	82 x	($50/$25)	$ 2,050.00
Independent Claims	12 - 3 =	9 x	($200/$100)	$ 900.00
☒ Multiple Dependent Claims	If marked, add fee of $360/$180			$ 180.00
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee	
38- 100 =	0/ 50 =	(round up to the whole number)	($250/$125)	$ 0.00
			TOTAL:	$ 3,630.00

☒ Small entity status is or has been claimed. Reduced fees under 37 C.F.R. §1.9 (f) paid herewith $3,630.00.

☒ A check in the amount of $3,630.00 in payment of the application filing fees is attached.

☐ Charge fee to Deposit Account No. 13-4500, Order No. _____. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required for filing this application pursuant to 37 CFR §1.16, **including all extension of time fees pursuant to 37 C.F.R. § 1.17 for maintaining copendency** with the parent application, or credit any overpayment to Deposit Account No. 13-4500, Order No. 3125-4003US1. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: April 22, 2005 By: _____

Angus R.Gill
Registration No. 51,133

Correspondence Address:

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01576 U.S.PTO
012205

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): McNally et al.

Group Art Unit: 2173 (parent case)

Serial No.: Continuation of 10/016,517

Examiner: Cao Nguyen (parent case)

Filed: HEREWITH

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

EXPRESS MAIL CERTIFICATE

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

Express Mail Label No.: EV 460 047 160 US

Date of Deposit: April 22, 2005

I hereby certify that the following attached paper(s) and/or fee

1. Utility Application and Fee Transmittal - 4 pages (in duplicate)
2. Specification with Claims & Abstract - 37 pages
3. 8 Sheets of Formal Drawings (FIGS. 1-9)
4. Copy of executed Combined Declaration/Power of Attorney from Serial No. 09/400,413 - 6 pages
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7. Postcard for Receipt Acknowledgement

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Jafet Cotto
(Typed or printed name of person mailing papers(s) and/or fee)

(Signature of person mailing paper(s) and/or fee)

Correspondence Address:

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Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: April 22, 2005 By: _____

Angus R.Gill
Registration No. 51,133

Correspondence Address:

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3 World Financial Center
New York, NY 10281-2101
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): McNally et al.

Group Art Unit: 2173 (parent case)

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Jafet Cotto
(Typed or printed name of person mailing papers(s) and/or fee)

(Signature of person mailing paper(s) and/or fee)

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
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(212) 415-8701 Facsimile

UNITED STATES PATENT APPLICATION

For:

INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

Inventors:

KEITH R. MCNALLY

WILLIAM H. ROOF

RICHARD BERGFELD

UNITED STATES PATENT APPLICATION

OF: KEITH R. MCNALLY
WILLIAM H. ROOF
RICHARD BERGFELD

FOR: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

The present application is a continuation of Application Serial No. 10/016,517, filed November 1, 2001, which is a continuation-in-part of Application Serial No. 09/400,413, filed September 21, 1999 (now U.S. Patent No. 6,384,850). The contents of Application Serial No. 10/016,517 and Application Serial No. 09/400,413 are incorporated herein by reference.

FIELD OF THE INVENTION

This invention relates to an information management and synchronous communications system and method for generation of computerized menus for restaurants and other applications with specialized display and synchronous communications requirements related to, for example, the use of equipment or software with non-PC-standard graphical formats, display sizes and/or applications for use in remote data entry, information management and synchronous communication between host computer, digital input device or remote pager via standard hardwired connection, the internet, a wireless link, smart phone or the like.

BACKGROUND OF THE INVENTION

While computers have dramatically altered many aspects of modern life, pen and paper have prevailed in the hospitality industry, e.g., for restaurant ordering, reservations and

wait-list management, because of their simplicity, ease of training and operational speed. For example, ordering prepared foods has historically been done verbally, either directly to a waiter or over the telephone, whereupon the placed order is recorded on paper by the recipient or instantly filled.

Although not previously adapted for wide-scale use in the hospitality industry, various forms of digital wireless communication devices are in common use, e.g., digital wireless messengers and pagers. Also in common use are portable laptop and handheld devices. However, user-friendly information management and communication capability not requiring extensive computer expertise has not heretofore been available for use in everyday life such as for restaurant ordering, reservations and wait-list management. Hundreds of millions of dollars have been spent on personal digital assistant ("PDA") development seeking to produce a small, light-weight and inexpensive device that could be adapted to such uses; yet none have yielded a satisfactory solution.

One of the inherent shortcomings of PDA type devices is that, as they strive for small size, low weight and low cost, they must compromise the size and clarity of the operator display medium interface itself, which in most cases is one of a variety of LCD (liquid crystal display) type devices. As the size of the display shrinks, the amount of information that may be displayed at any one point or time is commensurately decreased, typically requiring multiple screens and displays to display information to the operator. This reduces the overall utility of the device. Additionally, the smaller display and keyboard results in a non-optimal operator interface, which slows down operation and is thus unacceptable for the time criticality of ordering, reservation and wait-list management and other similar applications. This necessitates

many design compromises which in the aggregate have resulted in limited acceptance of PDA type devices in the restaurant and hospitality fields.

Many of the negatives prevalent in earlier devices have been eliminated, but, to date, there is still no integrated solution to the ordering/waitlist/reservation problem discussed above. With the advent of the Palm® and other handheld wireless devices, however, the efforts to make such devices ubiquitous have begun to bear fruit at least in some areas, e.g., personal calendars. However, substantial use of such devices in the restaurant and hospitality context has not occurred to date. As discussed above, at least one of the reasons PDAs have not been quickly assimilated into the restaurant and hospitality industries is that their small display sizes are not readily amenable to display of menus as they are commonly printed on paper or displayed on, e.g., large, color desktop computer screens. Another reason is that software for fully realizing the potential for wireless handheld computing devices has not previously been available. Such features would include fast and automatic synchronization between a central database and multiple handheld devices, synchronization and communication between a World Wide Web ("Web") server and multiple handheld devices, a well-defined application program interface ("API") that enables third parties such as point of sale ("POS") companies, affinity program companies and internet content providers to fully integrate with computerized hospitality applications, real-time communication over the internet with direct connections or regular modem dialup connections and support for batch processing that can be done periodically throughout the day to keep multiple sites in synch with the central database. A single point of entry for all hospitality applications to communicate with one another wirelessly has also previously been unavailable. Such a single point of entry would work to keep all wireless handheld devices and linked Web sites in synch with the backoffice server (central database) so

that the different components are in equilibrium at any given time and an overall consistency is achieved. For example, a reservation made online would be automatically communicated to the backoffice server and then synchronized with all the wireless handheld devices wirelessly. Similarly, changes made on any of the wireless handheld devices would be reflected instantaneously on the backoffice server, Web pages and the other handheld devices.

For the foregoing reasons, paper-based ordering, waitlist and reservations management have persisted in the face of widespread computerization in practically all areas of commerce. At most, computerization of these functions has been largely limited to fixed computer solutions, i.e., desktop or mainframe, because of the problems heretofore faced in configuring wireless handheld devices and maintaining database synchronization for such applications. Specifically, the unavailability of any simple technique for creating restaurant menus and the like for use in a limited display area wireless handheld device or that is compatible with ordering over the internet has prevented widespread adoption of computerization in the hospitality industry. Without a viable solution for this problem, organizations have not made the efforts or investments to establish automated interfaces to handheld and Web site menus and ordering options.

A principal object of the present invention is to provide an improved information management and synchronous communications system and method which facilitates user-friendly and efficient generation of computerized menus for restaurants and other applications that utilize equipment with non-PC-standard graphical formats, display sizes and/or applications.

A further object of the present invention is to provide an improved information management and synchronous communications system and method which provides for entry, management and communication of information from the operator as well as to and from another

computer, Web page menu, remote digital device using a standard hardwired connection, the internet or a wireless link.

A further object of the present invention is to provide an improved information management and synchronous communications system which is small, affordable and lightweight yet incorporates a user-friendly operator interface and displays menus in a readily comprehensible format.

A further object of the present invention is to provide a synchronous information management and communications system which enables automatic updating of both wireless and internet menu systems when a new menu item is added, modified or deleted from any element of the system.

SUMMARY OF THE INVENTION

The foregoing and other objects of the present invention are provided by a synchronous information management and communications system and method optimized for simplicity of operation which incorporates menu generation for creation of menus to be used with wireless remote handheld computer and PDA devices, the internet or any application where simple and efficient generation of menus is appropriate. The menu generation approach of the present invention includes a desktop software application that enables the rapid creation and building of a menu and provides a means to instantly download the menu configuration onto, e.g., a handheld device or Web page and to seamlessly interface with standard point of sale ("POS") systems to enable automatic database updates and communication exchanges when a change or input occurs in any of the other system elements. To solve the above and other related problems, an information management and communications system is provided which results in a dramatic reduction in the amount of time, and hence cost, to generate and maintain

computerized menus for, e.g., restaurants and other related applications that utilize non-PC-standard graphical formats, display sizes or applications.

The menu generation approach of the present invention has many advantages over previous approaches in solving the problem of converting paper-based menus or Windows® PC-based menu screens to small PDA-sized displays and Web pages. In one embodiment, the present invention is a software tool for building a menu, optimizing the process of how the menu can be downloaded to either a handheld device or Web page, and making manual or automatic modifications to the menu after initial creation.

Manual modifications to the generated menus include handwritten screen captures and/or voice recorded message captures coupled with the standard menus and modifiers generated according to standard choices . Such manual modifications enable an extremely rapid and intuitive interface to enhance operations and further optimize the overall operator interface. This approach solves a long-standing, operational issue in restaurant/hotel/casino food/drink ordering when customers want something unusual and not anticipated and available through normal computerized selections. As seen in Figure 8, the operator screen on the hand-held can capture handwritten information specific to a customers requests directly on the touch-sensitive screen of the wireless computing device. This additional information can then be coupled with the fixed menu and modifier information generated automatically from the hospitality application software and the combined message can be sent to a restaurant point of sale (POS) system, printer or/or display system. This unique operator interface enables universal languages and an unlimited set of information to be manually communicated and exchanged. The resultant combined message of one or more fixed indications selected from a menu of a device such as a

hand-held, and dynamic handwritten messages and/or data provides an even more powerful tool than either modality used independently.

For example a restaurant server taking a drink order could select from a menu of her hand-held device's screen "Iced Tea", and then manually write in the literal screen of her hand-held "with lemon" as shown in Figure 8. The manually-written information could, for example, be printed or displayed in front of a bartender preparing the drink order. The indication "Iced Tea" as selected from a menu of the hand-held would also be presented to the bartender, perhaps by printing and/or screen display. The server can also select any printer from within the hospitality establishment directly from the operator interface on the screen of the hand-held and have either the order or the receipt printed out where it is most convenient and efficient.

Similarly, a server taking a drink order could select from a menu of her hand-held device's screen "Iced Tea", and then record the voice message "with lemon" using her hand-held device integral microphone. The recorded information could, for example, be played on a speaker attached to a computer, POS system, or the like located near the bartender or chef preparing the order. The indication "Iced Tea" as selected from a menu of the hand-held would also be presented to the bartender/chef, perhaps by printing and/or screen display. Both the literal screen capture method and the voice recorded message method combine the power of automatic fixed menu generation with the expanded flexibility to resolve operational issues that exist throughout the hospitality market without this innovative solution. Additionally, in certain embodiments, hand-writing and voice recognition technologies can be utilized to convert the manual operator inputs into appropriate text messages which can be combined with the computer generated menu options to convey the combined information to, for example, a bartender or chef.

Similarly, hand-held devices can link the above innovations to individual customers at specific tables through a graphical user interface on the hand-held screen that assigns each customer a number within a table. For example, table 20 might have 6 customers (1-6) and each customer has a different order, By enabling the linkage of the orders to specific customer positions within the table and accessible from the hand-held screen, the servers can easily track and link the specific orders to the specific customers.

The use of wireless handheld devices in the restaurant and hospitality industry is becoming increasingly pervasive as restaurant owners and managers become more aware of the benefits. With the proper wireless handheld system in place, restaurants can experience increased table turns from improved server productivity and shorter order taking and check paying times. Restaurants and POS companies seeking to provide a wireless handheld interface to their desktop-based POS systems or a Web page equivalent face several challenges. These challenges include building a menu using their existing database and transferring the menu onto handheld devices or Web pages that will interface with servers wirelessly or to restaurants/customers over the internet. The menu generation approach of the present invention is the first coherent solution available to accomplish these objectives easily and allows one development effort to produce both the handheld and Web page formats, link them with the existing POS systems, and thus provides a way to turn a complicated, time-consuming task into a simple process.

The information management and synchronous communications system of the present invention features include fast synchronization between a central database and multiple handheld devices, synchronization and communication between a Web server and multiple handheld devices, a well-defined API that enables third parties such as POS companies, affinity

program companies and internet content providers to fully integrate with computerized hospitality applications, real-time communication over the internet with direct connections or regular modem dialup connections and support for batch processing that can be done periodically throughout the day to keep multiple sites in synch with the central database.

The communication module also provides a single point of entry for all hospitality applications, e.g., reservations, frequent customer ticketing, wait lists, etc. to communicate with one another wirelessly and over the Web. This communication module is a layer that sits on top of any communication protocol and acts as an interface between hospitality applications and the communication protocol and can be easily updated to work with a new communication protocol without modifying the core hospitality applications. An exemplary system diagram of such a communications systemic relationship is shown in Figure 9 and serves as an example of the power of the synchronization element of the invention through a common, linked solution. A single point of entry works to keep all wireless handheld devices and linked web sites in synch with the backoffice server applications so that the different components are in equilibrium at any given time and an overall consistency is achieved. For example, a reservation made online can be automatically communicated to the backoffice server and then synchronized with all the wireless handheld devices wirelessly. Similarly, changes made on any of the wireless handheld devices are reflected instantaneously on the backoffice server Web pages and the other handheld devices.

BRIEF DESCRIPTION OF THE DRAWINGS

The foregoing features and advantages of the present invention can be appreciated more fully from the following description, with references to the accompanying drawings in which:

FIG. 1 is a schematic representation of a window displayed on a computer display screen which shows a hierarchical tree menu, modifier window and sub-modifier window in conformity with a preferred embodiment of the present invention.

FIG. 2 is a schematic representation of a modifier dialog box in conformity with a preferred embodiment of the present invention.

FIG. 3 is a schematic representation of a menu category dialog box in conformity with a preferred embodiment of the present invention.

FIG. 4 is a schematic representation of a menu item dialog box in conformity with a preferred embodiment of the present invention.

FIG. 5 is a schematic representation of a display customization dialog box in conformity with a preferred embodiment of the present invention.

FIG. 6 is a schematic representation of a communications control window in conformity with a preferred embodiment of the present invention.

FIG. 7 is a schematic representation of a point of sale interface on a wireless handheld device for use in displaying page menus created in conformity with a preferred embodiment of the present invention.

FIG. 8 is an example of a literal, hand-written screen according to embodiments of the present invention.

FIG. 9 is an exemplary system diagram relating to embodiments of the present invention.

DETAILED DESCRIPTION OF THE INVENTION

Most personal computers today run under an operating system that provides a graphical user interface ("GUI") for accessing user applications. A GUI is used in the preferred

embodiment of the present invention. Through an interface of windows, pull-down menus, and toolbars, GUI operating systems have simplified PCs and have rendered computer technology more user friendly by eliminating the need to memorize keyboard entry sequences. In addition, GUIs allow users to manipulate their data as they would physical entities. For example, a window can represent a file and the contents of the window can represent the records of the file. The window can be opened, closed, or set aside on a desktop as if it were an actual object. The records of the file can be created, deleted, modified and arranged in a drag-and-drop fashion as if they also were physical objects. The most common GUI operating systems that provide this "object-oriented" environment for personal computers are Microsoft Windows® systems, including Windows CE® for handheld wireless devices and the like. Generally, a particular application program presents information to a user through a window of a GUI by drawing images, graphics or text within the window region. The user, in turn, communicates with the application by "pointing" at graphical objects in the window with a pointer that is controlled by a hand-operated pointing device, such as a mouse, or by pressing keys on a keyboard.

The use of menus is conventional in GUIs for software applications. Menus are typically utilized to provide end users of applications with available choices or processing options while using the applications. For example, in a typical desktop or interactive application, selection of a "file" from a menu bar may cause display of a context menu which provides "file" options. File options can have additional subordinate or child options associated with them. If a file option having subordinate options is selected, the child options are displayed in context in a child menu or submenu proximate to the selected parent option. One or more of the child options provided in the child menu may have further subordinate options. Thus, such a menu system comprises cascading sets of menus which are displayable in context to show the

parent/child relationships between options of the context menu. A menu system of this type is incorporated into the preferred embodiment of the invention.

The preferred embodiment of the present invention uses typical hardware elements in the form of a computer workstation, operating system and application software elements which configure the hardware elements for operation in accordance with the present invention. A typical workstation platform includes hardware such as a central processing unit ("CPU"), e.g., a Pentium® microprocessor, RAM, ROM, hard drive storage in which are stored various system and application programs and data used within the workstation, modem, display screen, keyboard, mouse and optional removable storage devices such as floppy drive or a CD ROM drive. The workstation hardware is configured by software including an operating system, e.g., Windows® 95, 98, NT or CE, networking software (including internet browsing software) and application software components. The preferred embodiment also encompasses a typical file server platform including hardware such as a CPU, e.g., Pentium® microprocessor, RAM, ROM, hard drive, modem, and optional removable storage devices, e.g., floppy or CD ROM drive. The server hardware is configured by software including an operating system, e.g., Windows® 95, 98, NT or CE, networking software (including Web server software) and database software.

A computer workstation for use in the preferred embodiment also includes a GUI. As is conventional, the GUI is configured to present a graphical display on the display screen arranged to resemble a single desktop. Execution of an application program involves one or more user interface objects represented by windows and icons. Typically, there may be several windows and icons simultaneously present on the desktop and displaying information that is generated by different applications.

The window environment is generally part of the operating system software that includes a collection of utility programs for controlling the operation of the computer system. The computer system, in turn, interacts with application programs to provide higher level functionality, including a direct interface with the user. Specifically, the application programs make use of operating system functions by issuing task commands to the operating system which then performs the requested task. For example, an application program may request that the operating system display certain information on a window for presentation to the user.

An aspect of the preferred embodiment of the information management and communications system of the invention is shown in FIG. 1. FIG. 1 shows an example of the GUI provided by the operating system of the preferred embodiment of the present invention. With reference to FIG. 1, the preferred embodiment includes an intuitive GUI 1 from which to build a menu on a desktop or other computer. A hierarchical tree structure 2 is used to show the different relationships between the menu categories 3 (e.g., soups, salads, appetizers, entrees, deserts, etc.), menu items 4 (e.g., green salad, chicken caesar salad, etc.), menu modifiers 5 (e.g., dressing, meat temperature, condiments, etc.) and menu sub-modifiers 6 (e.g., Italian, French, ranch, bleu cheese, etc.).

The procedure followed in configuring a menu on the desktop PC and then downloading the menu configuration onto the POS interface on the handheld device in conformance with the preferred embodiment is as follows.

The menu configuration application is launched by clicking on the appropriate icon on the desktop display screen. FIG. 1 will then be displayed. There are three windows on the screen shown in FIG. 1. The left window is the menu tree 7, also called the tree view. The top right window is the Modifiers window 8 and the bottom right window is the Sub-Modifiers

window 9. The Sub-Modifiers window lists the sub-modifiers that correspond to the modifier that is selected. The views on the right are referred to as list views. There are several ways of invoking a command, including using the menu options; using the context menu (right mouse click); using the keyboard or using the toolbar icons. For example, if it is desired to add a category to the menu, the following four options are available: (1) clicking on Edit, Add Category; (2) right mouse clicking on Menu, then clicking on Add Category; (3) highlighting Menu, then typing Ctrl + T or (4) clicking on the Add Category icon on the toolbar. To add an item to a category, the following options are available: (1) highlighting the category to which it is desired to add an item and then clicking on Edit > Add Item; (2) right mouse clicking on the desired category and then clicking on Add Item; (3) highlighting the desired category, then typing Ctrl + N or (4) clicking on the Add icon on the toolbar.

When building a menu, it should be kept in mind that the menu items are stored using a tree metaphor similar to how files are stored on a PC with folders and subfolders. The menu structure is similar to the Windows® File Explorer in the way the items are organized hierarchically. Below is an example of how an item may be configured:

Menu
>> Entrees
>> Red Meat
>> NY Strip
>> Vegetables
>> Tomato
>> Lettuce
Meat Temperature
>> Medium Rare

In the above example, Menu is the root. Entrees is a menu category. Red Meat is an Entree category. NY Strip is a modifier. Vegetable is a modifier. Meat Temperature is a modifier. Medium Rare is a sub-modifier of Meat Temperature.

The steps taken in building a menu are as follows:

1. Add Modifiers;
2. Add Sub-Modifiers and link them to the Modifiers;
3. Create Menu categories;
4. Add menu items to the categories;
5. Assign Modifiers to the menu items;
6. Preview the menu on the POS emulator on the desktop PC;
7. Download the menu database to the handheld device.

To add modifiers, a user clicks on the inside of the Modifiers window, then (1) clicks on Edit>Add Modifier; (2) Presses Ctrl + N; (3) right mouse clicks in the Modifiers window, then clicks on Add Modifiers or (4) clicks on the Add icon from the toolbar. If a menu is being built from scratch, the procedure is to enter the Long Name, Short Name, Code and Price in the Modifier dialog box 10 shown in FIG. 2. The Long Name is the full descriptive name of the item. The Short Name is the abbreviated name that will be displayed on the handheld device. The Code is the numeric or alphanumeric code for the item. If there is an existing database, the existing database can be browsed and menu items retrieved from the database. Clicking on the Browse button will bring up the existing database of menu items. The item to be added is then selected and "OK" is clicked. The fields will then be filled with the information from the database. Clicking on OK again will add the item as a modifier. To delete a modifier, the modifier is selected and the Delete key pressed on the keyboard. To edit a modifier, either the modifier is double clicked or the Enter key is pressed.

Sub-modifiers represent the last level of modifiers that can be assigned to a menu tree. To add sub-modifiers, the modifier to which sub-modifiers are to be assigned is selected. Then, the focus is set on the sub-modifier window by clicking inside the Sub-Modifier window as follows: (1) clicking on Edit>Add Sub-Modifier; (2) pressing Ctrl + N; (3) right mouse

clicking in the Sub-Modifiers window, then clicking on Add Sub-Modifiers or (4) clicking on the Add icon from the toolbar. If a menu is being built from scratch, the procedure is to enter the Long Name, Short Name, Code and Price in a Sub-Modifier dialog box similar to the Modifier dialog box shown in FIG. 2. As with modifiers, the Long Name is the full descriptive name of the item. The Short Name is the abbreviated name that will be displayed on the handheld device. The Code is the numeric or alphanumeric code for the item. As before, if there is an existing database, the existing database can be browsed and menu items retrieved from the database. Clicking on the Browse button will bring up the existing database of menu items. The item to be added is then selected and OK clicked. The fields will then be filled with the information from the database. Clicking on OK again will add the item as a sub-modifier. To delete a sub-modifier, the sub-modifier is selected and the Delete key depressed on the keyboard. To edit a sub-modifier, either the sub-modifier is double clicked or the Enter key is pressed.

Menu categories are created from the root. Some examples of categories are Appetizers, Soups, Salads, Entrees, Desserts, etc. The first step is to click on Menu in the menu tree window. Categories are added by (1) clicking on the Add Category icon from the toolbar; (2) clicking on Edit > Add Category or (3) pressing Ctrl + T. As shown in FIG. 3, Menu Category dialog box 11 then appears in which to enter the Long and Short names for the menu category.

To add menu items to categories, the menu category which is being built is clicked. For example, if items are being added to Appetizers, the Appetizers branch is clicked on. Then the Edit > Add Item is clicked on or Ctrl + N pressed. As before, if a menu is being built from scratch, the procedure is to enter the Long Name, Short Name, Code, Prep Time, Recipe and Price into the Menu Item dialog box 12 shown in FIG. 4. The Long Name is the full

descriptive name of the item. The Short Name is the abbreviated name that will be displayed on the handheld device. The Code is the numeric or alphanumeric code for the item. Prep Time is the time it takes to prepare the meal and Recipe would include preparation methods and ingredients that are used in the preparation of the item. If there is an existing database, the existing database can be browsed and menu items retrieved from the database. Clicking on the Browse button will bring up the existing database of menu items. The item to be added is then selected and OK is clicked. The fields will then be filled with the information from the database. Clicking on OK again will add the item to the category.

Once the menu items have been entered, it may be desired to assign some modifiers to the menu items. For example, it may be desired to assign meat temperature to a steak order. To accomplish this, first the modifier to be assigned is selected, then the menu item on the tree view that is to be assigned the modifier is clicked on and then Edit > Assign Modifier is clicked on. Or, the modifier can simply be dragged and dropped onto the menu item to link them. A dialog box is then displayed asking if this modifier is a required modifier. If it is a required modifier, the display icon will be red but if it is a non-required modifier the display icon will be green. As many modifiers as are applicable can be assigned. If any changes are made to the modifiers, those changes will be automatically reflected throughout the menu tree.

Once the modifiers have been entered, it may be desired to assign sub-modifiers to the modifiers items. For example, it may be desired to add Honey Mustard as a sub-modifier to Dressing. To accomplish this, first the modifier to be assigned a sub-modifier is selected, then the sub-modifier window is clicked on, then Edit > Add Sub Modifier is clicked on, Ctrl+N entered or the Add icon from the toolbar is clicked on. Or, the sub-modifier can simply be dragged and dropped onto the modifier to link them.

When the menu has been completely configured, it can be previewed on a POS emulator on the desktop to verify that the menu is correctly configured before downloading it to the handheld device. To preview, File > Preview Database is clicked on or the Preview Database icon from the toolbar is clicked on. The handheld POS emulator on the desktop can then be run. If the configuration is deemed acceptable, the handheld device is connected to the desktop PC to ensure that a connection has been established; the POS application on the handheld device is exited and File > Download Database is clicked on or the Download Database icon from the toolbar is clicked on. If there is an existing menu database on the handheld device, the system will ask if the existing database should be replaced. Yes is clicked if existing database replacement is desired.

A database function enables the creation of, e.g., a breakfast menu, lunch menu and dinner menu and downloading them to a handheld device. Functions available are (1) creating a new database; (2) opening an existing database; (3) saving a database under a different name. To access these functions, File is clicked on the menu bar.

The preferred embodiment encompasses customized layout, views and fonts. To set the focus on the view it is desired to change, click inside the desired window. The main customizing dialog box is accessed by clicking on View > Customize View. A dialog box 13, as shown in FIG. 5, will be displayed including tabs that allow the following options: selection of Columns to display in the list view by choosing and arranging the fields to display in the Modifiers and Sub-Modifiers windows; formatting Columns by specifying the column widths and justification; selecting Filter allows restricting the list to display only the items that meet certain criteria. For example, display of modifiers with codes between 500 and 550. Selecting Sort allows sorting the modifiers or sub-modifiers according to any of the available fields such as

Name, Code or Price. Selecting Style facilitates choice of font type, style, size, etc. To change the font in a particular window, click on View > Fonts or right mouse click in the desired window and then click on Fonts. To change the size of the windows, drag the borders of the windows to expand or contract the size of the windows. To change the column widths, simply drag the edge of the column headers to increase or decrease the column widths.

A communications control program monitors and routes all communications to the appropriate devices. It continuously monitors the wireless network access point and all other devices connected to the network such as pagers, remote devices, internet Web links and POS software. Any message received is decoded by the software, and then routed to the appropriate device. No user action is needed during operation of the software once the application has been launched. To launch the communications control module, a Wireless Traffic icon is clicked on the desktop PC. When the program loads, the screen shown in FIG. 6 appears. Messages received are logged in the window 14 shown in FIG. 6 with a time stamp. The messages are also logged to a file on the hard drive. This provides a mechanism to monitor all traffic across the network (possibly useful for troubleshooting, or maintenance, but not necessary for normal operation). The program may be minimized so the screen is not displayed on the desktop, but it must be running for proper communications to exist between all devices on the network.

As stated, the preferred embodiment of the present invention includes the use of and compatibility with GUI technology. A drag-and-drop approach is used for organizing the tree structure 2 in the generated menu. Drag-and-drop is also used for assigning modifiers (modifiers can be dragged from the modifiers window 5 and dropped onto the menu item 4 for assignment). In-cell editing results in fast editing of items in building the menus. Customizable fonts enable users to change font types, style and size. Customizable layouts enable users to

resize windows, change icons and display preferences. The inventive approach provides for fully persistent storage between sessions, even if a session is improperly or abruptly terminated. Font and the tree state (i.e., which nodes are expanded/collapsed) are stored between sessions. Layout for modifiers and sub-modifiers list views (filter, columns, formatting, font, etc.) are stored between sessions. The last database used is likewise stored between sessions. Splitter views allow the user to see different views at the same time. Each view is displayed on its own section of the screen. Views can be resized via the keyboard or a mouse by simply dragging the splitter in the middle.

An automated function is provided to import existing POS databases into the inventive menu generation system and, as discussed above with respect to the detailed example of how to use the preferred embodiment, an automated download procedure is provided to transfer the desktop database onto a handheld device and/or Web page. Also as discussed, the preferred embodiment facilitates preview of the handheld device or Web page version of the POS menu on the desktop before downloading and configuration. Customizable desktop menu generation is contemplated, as discussed above, in the form of customizable fonts, columns, layouts, etc. The inventive approach also includes templates for common modifiers that can be assigned to similar menu items. The preferred embodiment also supports multiple databases, thus providing for the creation and storing of different menu databases on handheld devices such as breakfast, lunch or dinner menus. The user can then select the appropriate database to reflect the time of day.

FIG. 7 is a schematic representation of a point of sale interface 15 for use in displaying a page-type menu 16 created using the inventive menu generation approach. As can be seen from FIG. 7, the page menu is displayed in a catalogue-like point-and-click format

whereas the master menu, FIG. 1, is displayed as a hierarchical tree structure. Thus, a person with little expertise can "page through" to complete a transaction with the POS interface and avoid having to review the entire menu of FIG. 1 to place an order. A PDA or Web page format could appear like FIG. 7 or the display could be configured for particular requirements since fully customizable menu generation and display are contemplated.

The POS interface on the handheld device supports pricing in the database or querying prices from the POS server. The POS device also can be customized with respect to "look and feel" for the particular version. As can be seen in FIG. 7, the POS interface provides for billing, status and payment with respect to orders. A myriad of options can be provided depending on the application.

Advanced database functions are provided in the preferred embodiment of the invention, including an automated download process onto handheld devices and/or Web sites. In the preferred embodiment, the menu generation system of the present invention uses an API called ActiveX Data Objects ("ADO") for database access. ADO is useful in a variety of settings. It is built on top of OLE DB and can be used to talk to databases and, in the future, any data source with any OLE DB driver. Advanced querying is supported. The database can be queried on virtually all fields. Queries can be built using SQL syntax for experienced users or can be created using a query builder which guides users through the creating process. Advanced error handling is supported. Errors occurring at run time can be trapped. A descriptive message is displayed to alert the user and provide error information. However, the application does not terminate when the errors happen. The source code is easy to maintain and modify, thus allowing for on time delivery of customized versions of the software. The advanced database functions produce well-designed databases that accommodate growth and scalability

The inventive menu generation approach provides a solution for the pervasive connectivity and computerization needs of the restaurant and related markets. The inventive solution includes automatic database management and synchronization, PDA and handheld wireless operating system integration and optimization, wireless communications and internet connectivity, user interface design, and graphics design.

In the preferred embodiment, the menu generation approach of the present invention uses Windows CE® as the operating system for the handheld devices. Windows CE® provides the benefits of a familiar Windows 95/98/NT® look and feel, built-in synchronization between handheld devices, internet and desktop infrastructure, compatibility with Microsoft Exchange®, Microsoft Office 9® and TCP/IP quick access to information with instant-on feature.

Windows CE® provides a basic set of database and communication tools for developer use. However, interfacing with these tools to provide application specific results can be a complex task. In addition to the menu generation described above, a set of software libraries described herein in conformance with the present invention not only enhances the basic Windows CE® functionality by adding new features but also maximizes the full potential of wireless handheld computing devices. Such features include fast synchronization between a central database and multiple handheld devices, synchronization and communication between a Web server and multiple handheld devices, a well-defined API that enables third parties such as POS companies, affinity program companies and internet content providers to fully integrate with computerized hospitality applications, real-time communication over the internet with direct connections or regular modem dialup connections and support for batch processing that can be done periodically throughout the day to keep multiple sites in synch with the central database.

The synchronous communications control module discussed above provides a single point of entry for all hospitality applications to communicate with one another wirelessly or over the Web. This communications module is a layer that sits on top of any communication protocol and acts as an interface between hospitality applications and the communication protocol. This layer can be easily updated to work with a new communication protocol without having to modify the core hospitality applications. The single point of entry works to keep all wireless handheld devices and linked Web sites in synch with the backoffice server (central database) so that the different components are in equilibrium at any given time and an overall consistency is achieved. For example, a reservation made online is automatically communicated to the backoffice server which then synchronizes with all the wireless handheld devices wirelessly. Similarly, changes made on any of the wireless handheld devices will be reflected instantaneously on the backoffice server and the other handheld devices.

The software applications for performing the functions falling within the described invention can be written in any commonly used computer language. The discrete programming steps are commonly known and thus programming details are not necessary to a full description of the invention.

A simple point-to-point wireless capability is contemplated which permits simple digital messages to be sent from the wireless handheld devices to a receiver in a beeper and/or valet parking base-station. The POS interface of FIG. 7 is representative of the display on a typical wireless device used in conformity with the invention. A simple protocol is used to acknowledge receipt of the message and thus simultaneous communication is not necessary, which reduces the cost of the wireless link. The range of the wireless link is determined by the characteristics of the radio transceiver. Adding a wireless link allows paging of beeper equipped

customers directly from the operator interface on the wireless handheld devices and communication to and from various input/output transmitters and receivers to update the status of the order, reservation or other information and thus further reduce the workload on the operator and enable operations to proceed much faster. This link could also be hardwired or otherwise implemented using any two-way messaging transport.

A further aspect of the invention is the use of the menus generated in accordance with the described technique to place orders from wireless remote handheld devices or from remote locations through the internet. The World Wide Web is a distributed hypermedia computer system that uses the internet to facilitate global hypermedia communication using specified protocols. One such protocol is the Hypertext Transfer Protocol ("HTTP"), which facilitates communication of hypertext. Hypertext is the combination of information and links to other information. In the context of the Web, hypertext is defined by the Hypertext Mark-up Language ("HTML"). The links or hyperlinks in a HTML document reference the locations of resources on the Web, such as other HTML documents. Another language used in creating documents for use on the Worldwide Web, to display on computer screens, or to create speech style sheets for use in, e.g., telephones, is the Extensible Mark-Up Language ("XML"). XML is a "metalanguage", i.e., a language for describing languages which was developed to eliminate the restrictions of HTML.

The Web is a client-server system. The HTML documents are stored on Web server computers, typically in a hierarchical fashion with the root document being referred to as the home page. The client specifies a HTML document or other source on the server by transmitting a Uniform Resource Locator ("URL") which specifies the protocol to use, e.g., HTTP, the path to the server directory in which the resource is located, and filename of the

resource. Users retrieve the documents via client computers. The software running on the user's client computer that enables the user to view HTML documents on the computer's video monitor and enter selections using the computer's keyboard and mouse is known as a browser. The browser typically includes a window in which the user may type a URL. A user may cause a URL to be transmitted by typing it in the designated window on the browser or by maneuvering the cursor to a position on the displayed document that corresponds to a hyperlink to a resource and actuating the mouse button. The latter method is commonly referred to simply as "clicking on the hot-spot" or "clicking on the hyperlink". The hyperlink methodology is contemplated for use in accordance with the preferred embodiment to transmit orders via the internet.

Web server application software exists that enables a user to shop for and order merchandise. Such systems are sometimes referred to as electronic merchandising systems or virtual storefronts. Systems that enable a user to choose among several retailers' goods are sometimes referred to as electronic malls. An electronic retailer's or electronic mall operator's Web server provides HTML forms that include images and descriptions of merchandise. The user may conventionally search for an item by entering a key word search query in a box on a form. When a user selects an item, the server may provide a linked form that describes that item in further detail. The user may also conventionally enter ordering information into boxes on the form, such as the type and quantity of the item desired. The information entered by the user is transmitted to the server. The user may select multiple items in this manner and then enter a credit card number to pay for the purchases. The retailer processes the transaction and ships the order to the customer. As can be appreciated, ordering merchandise can also be done from menus. The generation of menus of items or merchandise for sale over the internet is readily accomplished by the menu generation approach of the present invention.

Searching for items that the user is interested in purchasing is insufficient in prior merchandising systems. Database management programs use index searching to facilitate rapid searching of large amounts of data. The creator of the database may instruct the program to use specified fields in the database as indexed or key fields. The program locates all terms in the database that appear in the indexed fields and stores them in an index table. Each entry in the index table includes a term and corresponding pointer to the location in the database where the term is found. If a user initiates a search for a term that is present in the index table, the program can locate the instances of that term in the database with exceptional speed. Users who are familiar with the particular database they are searching will generally know which fields are indexed and will know the format of the data in those fields. For example, a user of a database containing the inventory of a bookstore may know that users can search for the names of authors of books and that a user who wishes to do so should enter the author's last name first. A user having such knowledge will therefore be able to search efficiently. Users of electronic merchandising systems, however, are generally end-consumers who have no knowledge of a merchant's database. If, as is very likely, such a user initiates a search for a term that is not present in the index table, the program must sequentially search through all records in the database. Sequential records are typically linked by pointers. Using pointers in this manner is very demanding on server resources, resulting not only in an exceptionally slow search, but also creating a bottleneck for other processes that the server may be executing. The menu generation approach of the present invention can be used to create customized menus from a database that includes every item of merchandise the vendor has for sale. In this manner, customers can scan the generated menu much more readily than they could view the entire database and the

necessity of having familiarity with the database is eliminated as well, reducing the need for resource intensive pointers.

While the preferred embodiment of the invention is for the generation of restaurant menus and the like, the broad scope of the invention is far greater. For example, menus generated in accordance with the invention can be used in the desktop computing environment in association with the operating system or application programs. One such use is to facilitate the creation of user personalized file structures for general desktop use. Another use is to facilitate the location of customized menus from master menus for use in association with application software to make the execution of the application software more efficient by, e.g., eliminating the necessity of querying or checking every tree branch in the master menu file structure in response to user input or other criteria and to create handheld/PDA compatible versions of the software.

While the preferred embodiment of the invention includes the selection of items from a master menu wherein the master menu is displayed using a graphical user interface, it is to be appreciated that any means for displaying the master menu to the user and generating another menu in response to and comprised of the selections made is encompassed by the contemplated invention. The invention encompasses the selection of nontextual symbols, characters, icons and the like, in addition to text, from a hierarchical tree menu or the like for generation of another menu comprised of such items.

It is also within the scope of the invention to generate menus automatically in response to predetermined criteria. For example, in the restaurant menu generation embodiment, a modified menu can be generated to comply with a particular specification or group of criteria such as, e.g., "dinner", "low cholesterol", "low fat", "fish", "chicken", or "vegetarian". In this

embodiment, only items from the master menu that satisfy specified parameters will be included in the generated menu. The selection process could involve selection of master menu items based on tags or identifiers associated with the items or by checking every master menu item against a dictionary of items acceptable for inclusion in the modified menu. It should also be appreciated that the invention encompasses any combination of automatic and manual user selection of the items comprising the generated menu. For example, a user might specify criteria which would further control automatic selection or the user could manually select some items with automatic selection of others. The menu generation aspect of the invention is equally applicable to table-based, drive-thru, internet, telephone, wireless or other modes of customer order entry, as is the synchronous communications aspect of the invention.

The inventive concept encompasses the generation of a menu in any context known to those skilled in the art where an objective is to facilitate display of the menu so as to enable selection of items from that menu. The restaurant menu generation embodiment is but one example of a use for the inventive concept. Likewise, displaying menus generated in accordance with the invention on PDAs and Web pages to facilitate remote ordering are but a few examples of ways in which such a menu might be used in practice. Any display and transmission means known to those skilled in the art is equally usable with respect to menus generated in accordance with the claimed invention.

In the more general situation, menus can be generated in accordance with the present invention in a variety of situations. For example, the usable file structure for a particular data processing application can be dictated by the user or an application program prior to or during the execution of the application program. Efficiencies with respect to computational

speed and equipment, e.g., storage and processor, usage can thus be achieved along with the facilitation of display of the generated menu.

While the best mode for carrying out the preferred embodiment of the invention has been illustrated and described in detail, those familiar with the art to which the invention relates will recognize various alternative designs and embodiments which fall within the spirit of practicing the invention. The appended claims are intended to cover all those changes and modifications falling within the true spirit and scope of the present invention.

That which is claimed is:

1. An information management and synchronous communications system for generating and transmitting menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a graphical user interface,

d. a first menu consisting of menu categories, said menu categories consisting of menu items, said first menu stored on said data storage device and displayable in a window of said graphical user interface in a hierarchical tree format,

e. a modifier menu stored on said data storage device and displayable in a window of said graphical user interface,

f. a sub-modifier menu stored on said data storage device and displayable in a window of said graphical user interface, and

g. application software for generating a second menu from said first menu and transmitting said second menu to a wireless handheld computing device or Web page,

wherein the application software facilitates the generation of the second menu by allowing selection of categories and items from the first menu, addition of menu categories to the second menu, addition of menu items to the second menu and assignment of parameters to items in the second menu using the graphical user interface of said operating system, said parameters

being selected from the modifier and sub-modifier menus, wherein said second menu is manually modified after generation.

2. An information management and synchronous communications system for generating menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a graphical user interface,

d. a first menu stored on said data storage device,

e. application software for generating a second menu from said first menu,

wherein the application software facilitates the generation of the second menu by allowing selection of items from the first menu, addition of items to the second menu and assignment of parameters to items in the second menu using the graphical user interface of said operating system and wherein data comprising the second menu is synchronized between the data storage device connected to the central processing unit and at least one other computing device, wherein said second menu is manually modified by handwriting or voice recording after generation.

3. An information management and synchronous communications system for generating menus comprising:

a. a microprocessor,

b. a display device,

c. a data and instruction input device,

d. a data storage device for storing information and instructions entered through said data and instruction input means or information generated by said microprocessor,

e. an operating system,

f. a master menu stored on said data storage device for generating a modified menu, and

g. application software,

wherein said microprocessor, operating system and application software are operative to display the master menu on the display device in response to instructions programmed into said microprocessor, operating system, application software and information and instructions entered through said data input device, and wherein said microprocessor, operating system and application software are operative to create the modified menu from said master menu in response to information and instructions entered through said data and instruction input device and wherein data comprising the modified menu is synchronized between the data storage device

and at least one other computing device, wherein said modified menu is manually modified after generation.

4. In a computer system having an input device, a storage device, a video display, an operating system including a graphical user interface and application software, an information management and synchronous communications method comprising the steps of:

a. outputting at least one window on the video display;

b. outputting a first menu in a window on the video display;

c. displaying a cursor on the video display;

d. selecting items from the first menu with the input device or the graphical user interface;

e. inserting the items selected from the first menu into a second menu, the second menu being output in a window;

f. optionally adding additional items not included in the first menu to the second menu using the input device or the graphical user interface;

g. storing the second menu on the storage device; and

synchronizing the data comprising the second menu between the storage device and at least one other data storage medium, wherein the other data storage medium is connected to or is part of a different computing device, and wherein said second menu is manually modified after generation.

5. The information management and synchronous communications system of claim 1, 2, or 3 wherein the manual modification involves handwriting capture.

6. The information management and synchronous communications system of claim 1, 2, or 3 wherein the manual modification involves voice capture.

7. The method of claim 4 wherein the manual modification involves handwriting capture.

8. The method of claim 4 wherein the manual modification involves voice capture.

9. The system of claim 1 wherein the modified second menu can be selectively printed on any printer directly from the graphical user interface of a hand-held device.

10. The system of claim 1 wherein the modified second menu can be linked to a specific customer at a specific table directly from the graphical user interface of a hand-held device.

11. The system of claim 2 or 3 wherein the modified second menu can be selectively printed on any printer directly from the graphical user interface of said other computing device.

12. The system of claim 2 or 3 wherein the modified second menu can be linked to a specific customer at a specific table directly from the graphical user interface of said other computing device.

13. The system of claim 5 wherein the handwriting capture involves handwriting recognition and conversion to text.

14. The system of claim 6 wherein the voice capture involves voice recognition and conversion to text.

15. The method of claim 7 wherein the handwriting capture involves handwriting recognition and conversion to text.

16. The method of claim 8 wherein the voice capture involves voice recognition and conversion to text.

ABSTRACT

An information management and synchronous communications system and method facilitates database equilibrium and synchronization with wired, wireless and Web-based systems, user-friendly and efficient generation of computerized menus and reservations with handwritten/voice modifications for restaurants and other applications that utilize equipment with nonstandard graphical formats, display sizes and/or applications for use in remote data entry, information management and communication with host computer, digital input device or remote pager via standard hardwired connection, the internet, a wireless link, printer or the like.

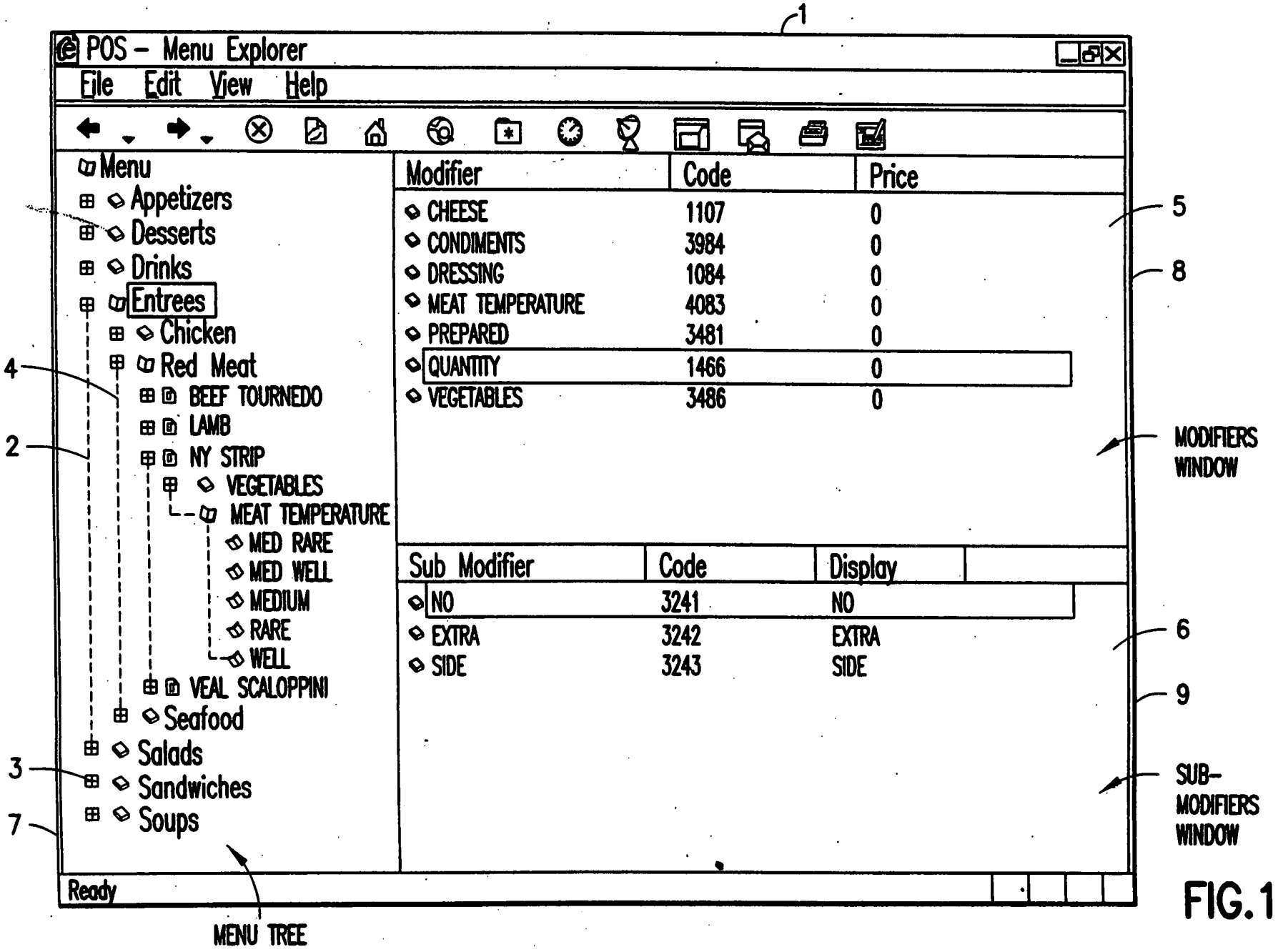

FIG. 1

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Apple, Exhibit 1012, Page 48

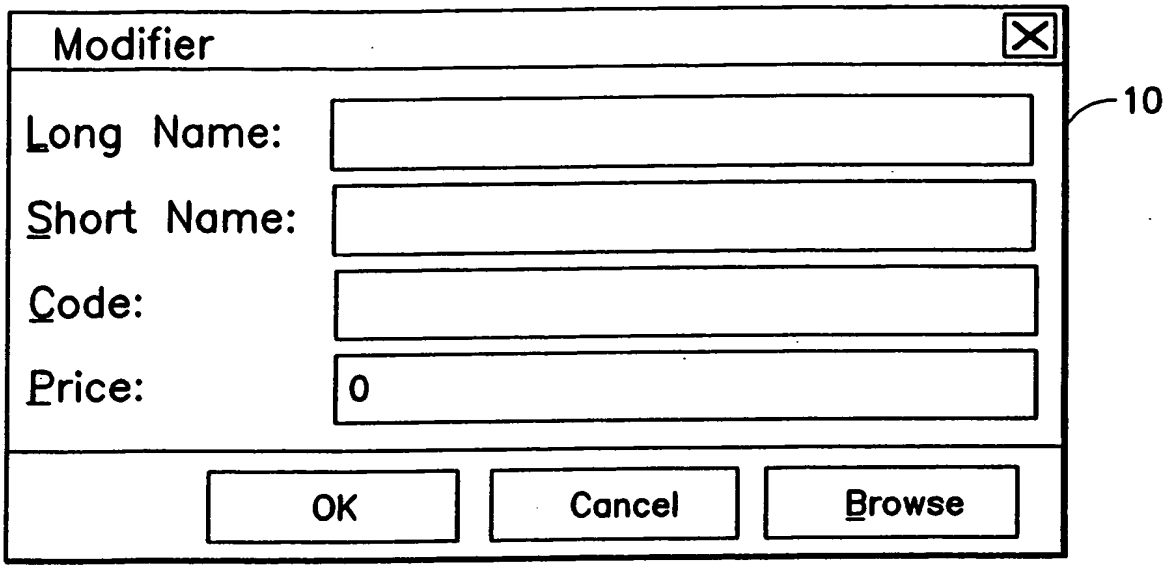

Modifier
Long Name:
Short Name:
Code:
Price:
0
OK
Cancel
Browse
10

FIG.2

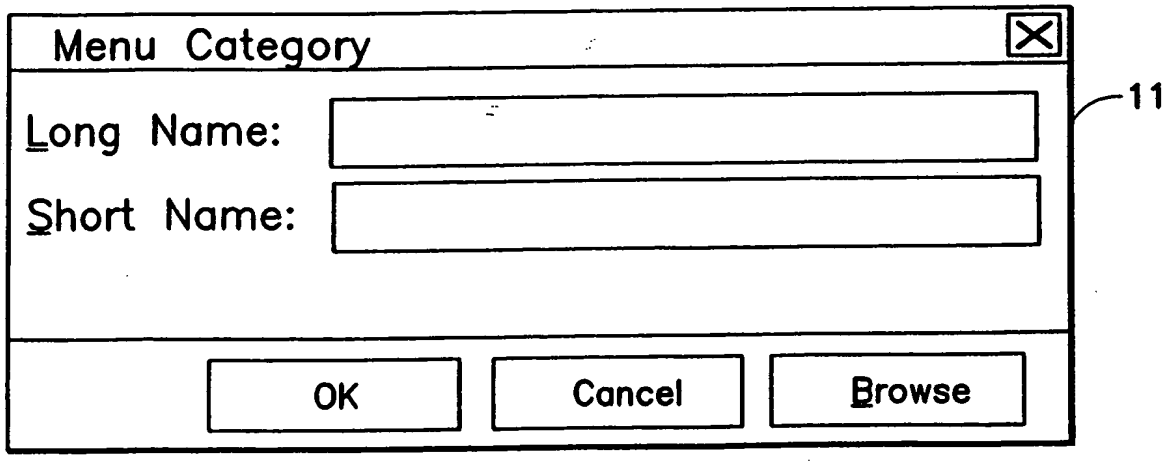

Menu Category
Long Name:
Short Name:
OK
Cancel
Browse
11

FIG.3

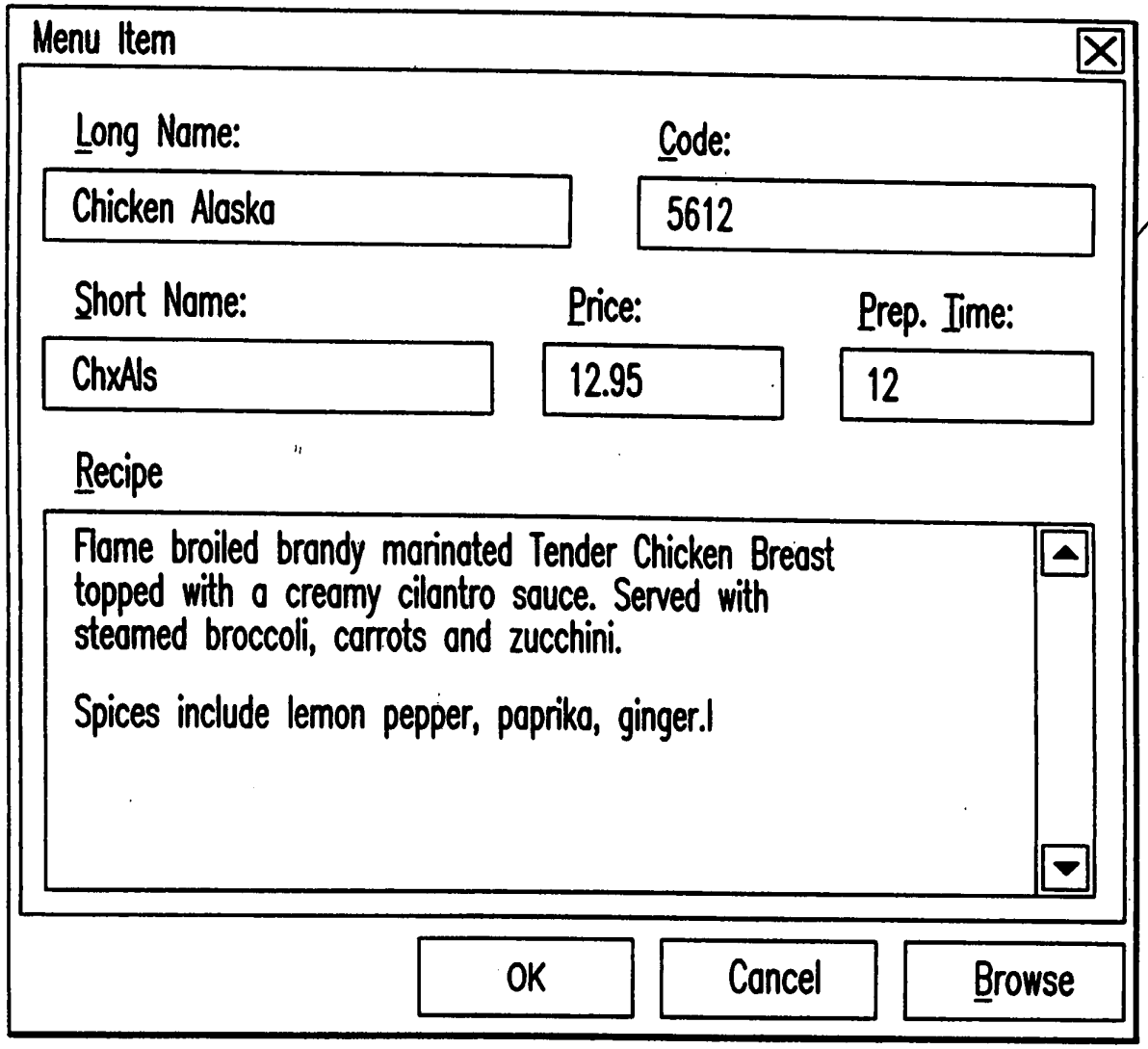


FIG.4

Apple, Exhibit 1012, Page 50

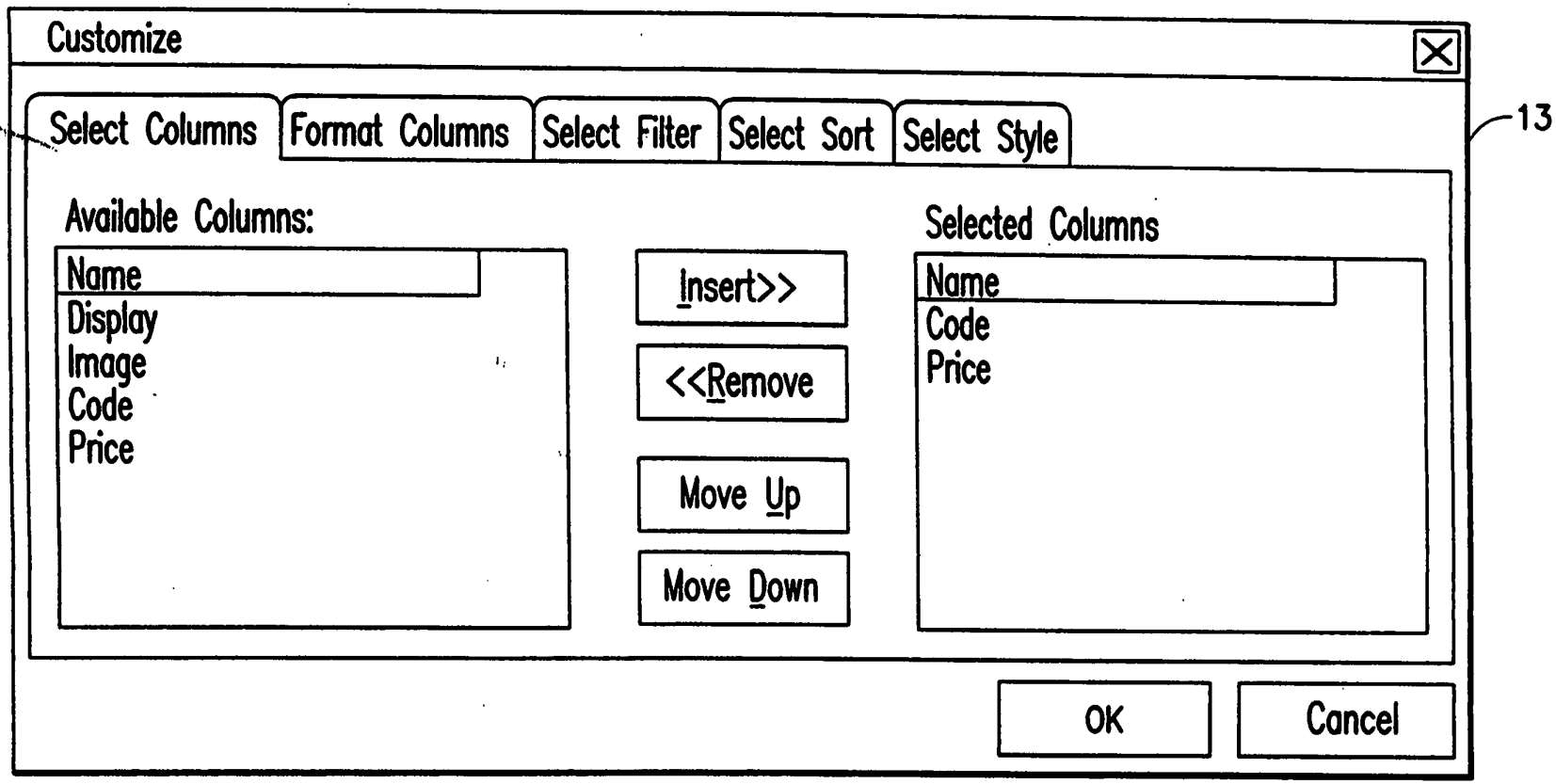


FIG.5

Apple, Exhibit 1012, Page 51

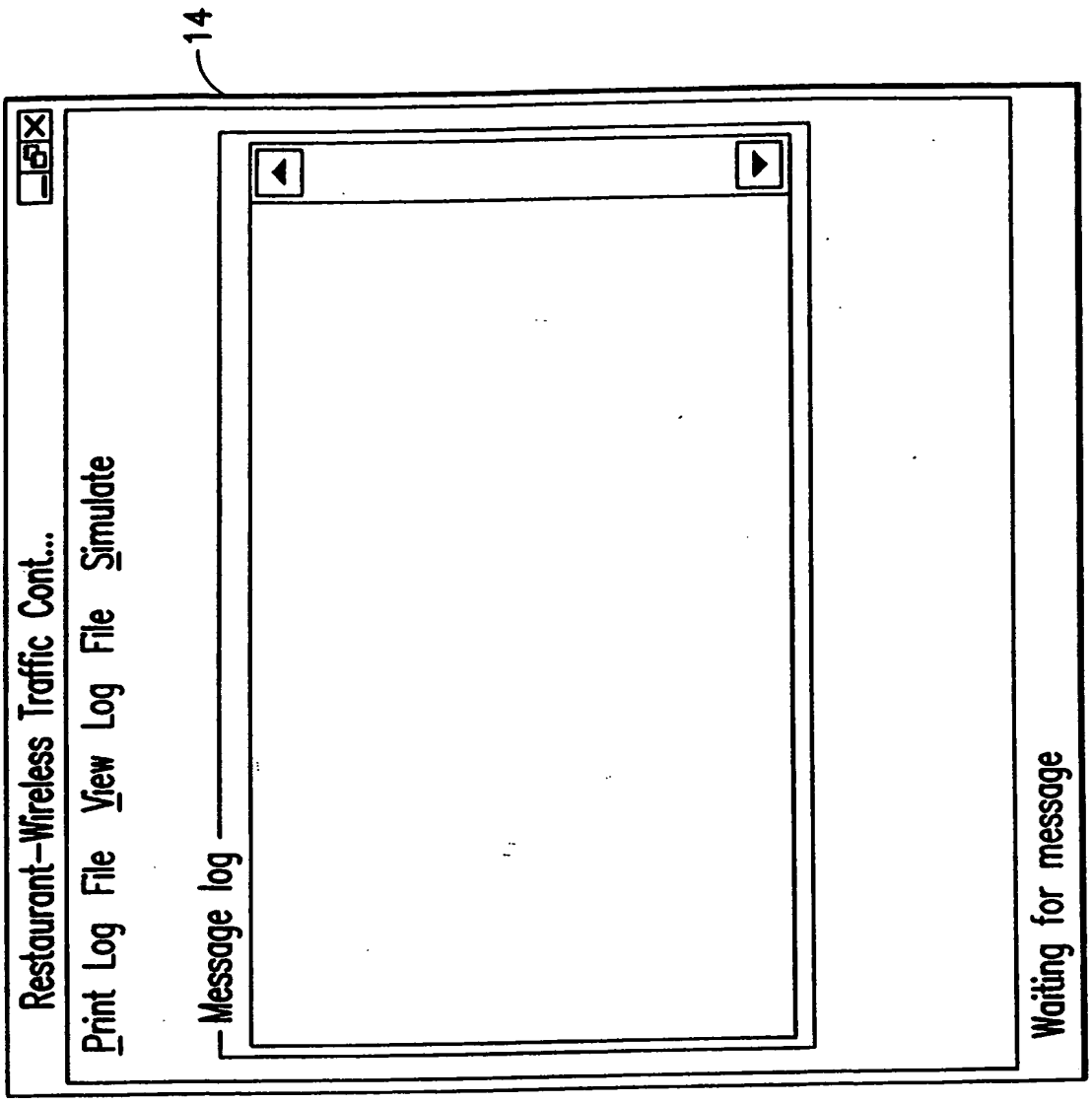

14
Restaurant-Wireless Traffic Cont...
Print Log File View Log File Simulate
Message log
Waiting for message

FIG.6

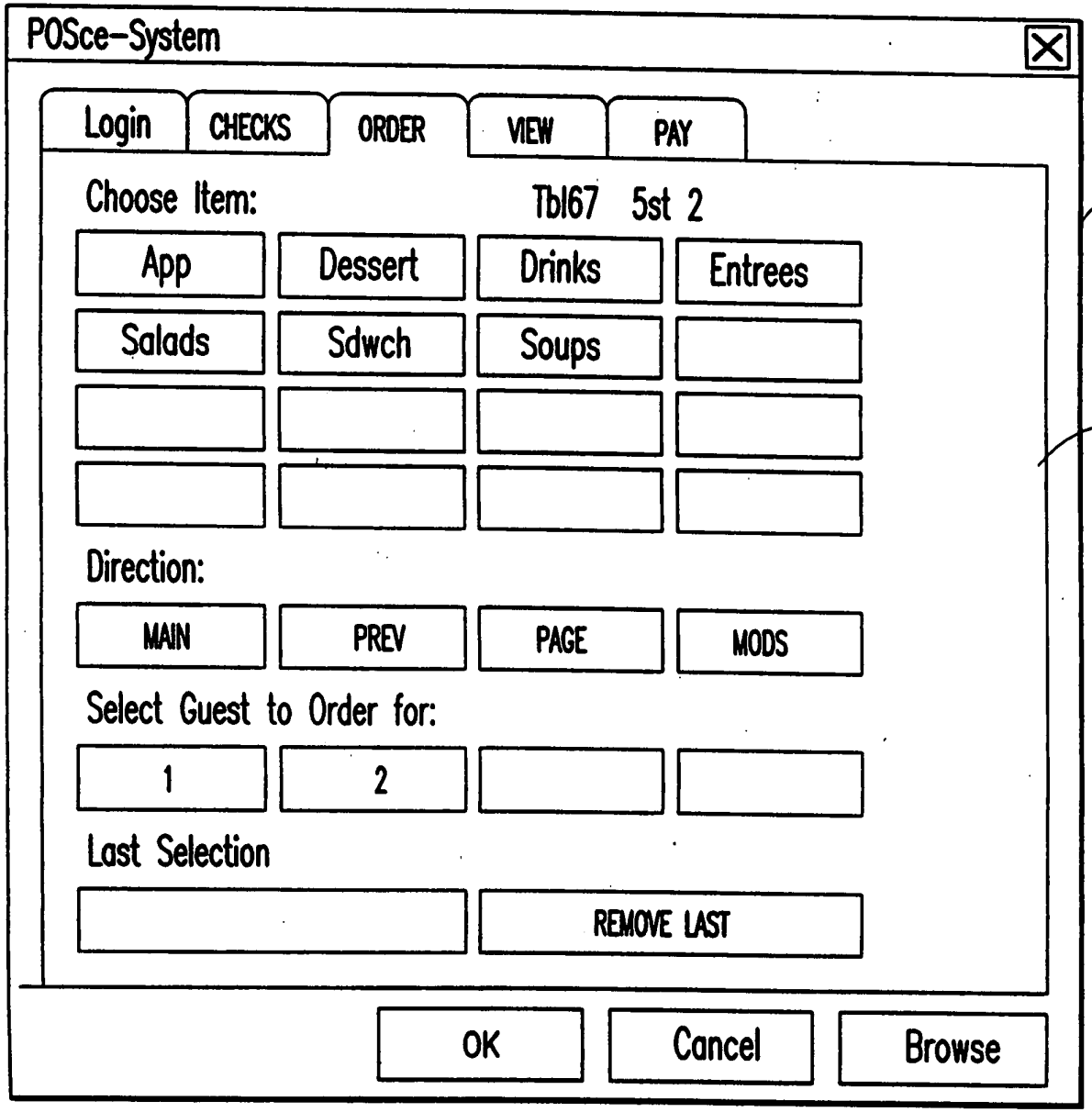
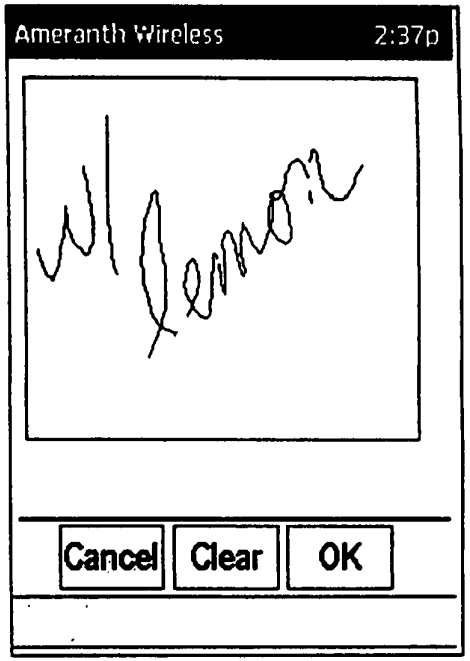


FIG.7

Apple, Exhibit 1012, Page 53

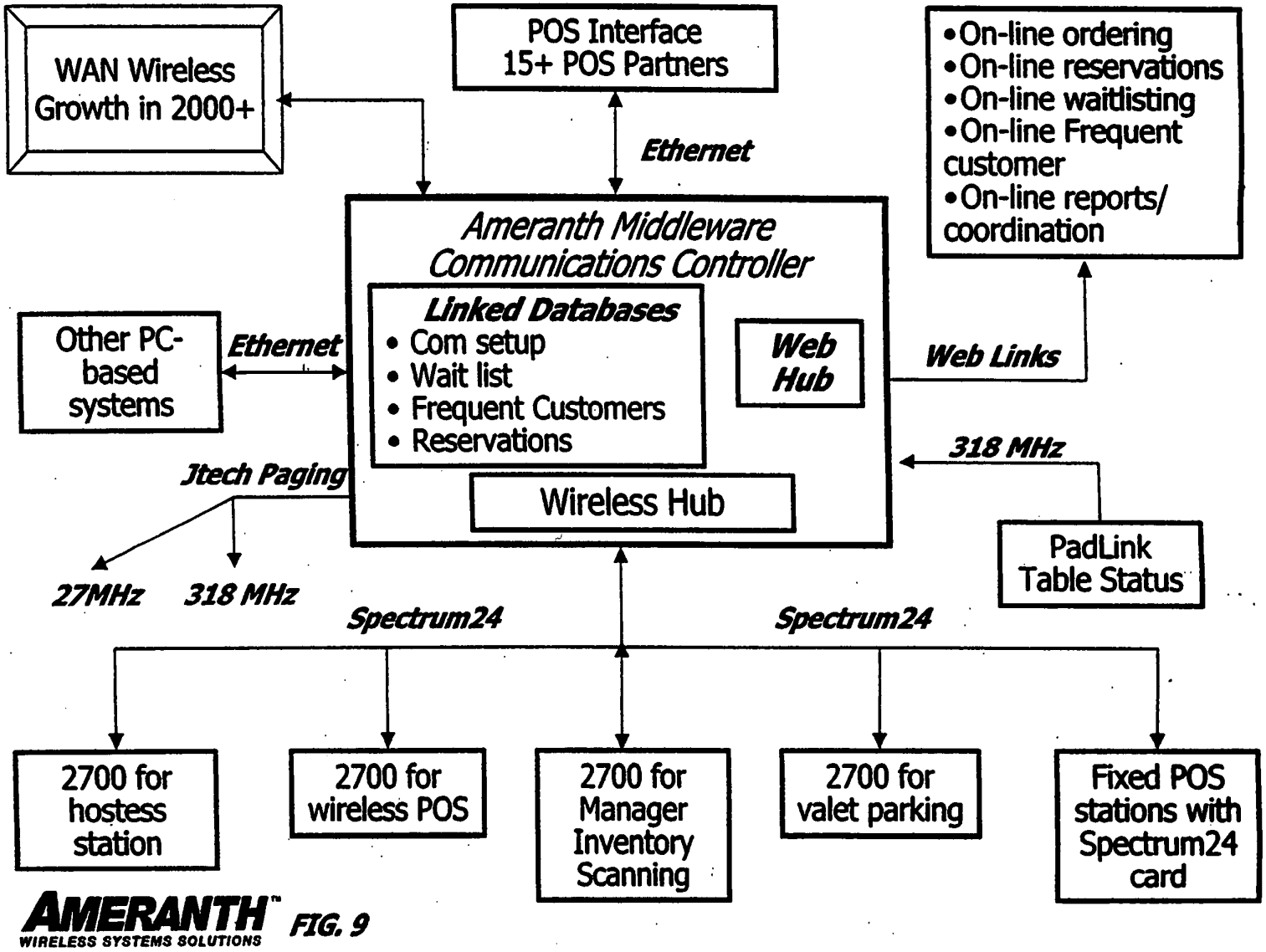
FIG. 8



This is an example of the ordering "Literal Screen".

Apple, Exhibit 1012, Page 54

Ameranth 21st Century Communications Integration



AMERANTH™ WIRELESS SYSTEMS SOLUTIONS

FIG. 9

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Docket No. 3125-4002

COMBINED DECLARATION AND POWER OF ATTORNEY FOR
ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL
DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART APPLICATION

As a below name inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION

the specification of which

a. [ ] is attached hereto

b. [X] was filed on September 21, 1999 as application Serial No. 09/400,413 and was amended on _____. (if applicable).

PCT FILED APPLICATION ENTERING NATIONAL STAGE

c. [ ] was described and claimed in International Application No. _____ filed on _____ and as amended on _____. (if any).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby specify the following as the correspondence address to which all communications about this application are to be directed:

SEND CORRESPONDENCE TO: MORGAN & FINNEGAN, L.L.P
345 Park Avenue
New York, N.Y. 10154

DIRECT TELEPHONE CALLS TO: _____
(212) 758-4800

[ ] I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) or under § 365(b) of any foreign application(s) for patent or inventor's certificate or under § 365(a) of any PCT international application(s) designating at least one country other than the U.S. listed below and also have identified below such foreign application(s) for patent or inventor's certificate or such PCT international application(s) filed by me on the same subject matter having a filing date within twelve (12) months before that of the application on which priority is claimed:

[ ] The attached 35 U.S.C. § 119 claim for priority for the application(s) listed below forms a part of this declaration.

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Country/PCT	Application Number	Date of filing (day, month, yr)	Date of Issue (day, month, yr)	Priority Claimed
				[ ] YES [ ] NO
				[ ] YES [ ] NO
				[ ] YES [ ] NO

[ ] I hereby claim the benefit under 35 U.S.C. § 119(e) of any U.S. provisional application(s) listed below.

Provisional Application No.	Date of Filing (day, month, yr)

ADDITIONAL STATEMENTS FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART OR PCT INTERNATIONAL APPLICATION(S) (DESIGNATING THE U.S.)

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or under § 365(c) of any PCT international application(s) designating the U.S. listed below.

US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)

[ ] In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the above listed prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint the following attorneys and/or agents with full power of substitution and revocation, to prosecute this application, to receive the patent, and to transact all business in the Patent and Trademark Office connected therewith: John A. Diaz (Reg. No. 19,550), John C. Vassil (Reg. No. 19,098), Alfred P. Ewert (Reg. No. 19,887),

David H. Pfeffer (Reg. No. 19,825), Harry C. Marcus (Reg. No. 22,390), Robert E. Paulson (Reg. No. 21,046), Stephen R. Smith (Reg. No. 22,615), Kurt E. Richter (Reg. No. 24,052), J. Robert Dailey (Reg. No. 27,434), Eugene Moroz (Reg. No. 25,237), John F. Sweeney (Reg. No. 27,471), Arnold I. Rady (Reg. No. 26,601), Christopher A. Hughes (Reg. No. 26,914), William S. Feiler (Reg. No. 26,728), Joseph A. Calvaruso (Reg. No. 28,287), James W. Gould (Reg. No. 28,859), Richard C. Komson (Reg. No. 27,913), Israel Blum (Reg. No. 26,710), Bartholomew Verdirame (Reg. No. 28,483), Maria C.H. Lin (reg. No. 29,323), Joseph A. DeGirolamo (Reg. No. 28,595), Michael P. Dougherty (Reg. No. 32,730), Seth J. Atlas (Reg. No. 32,454), Andrew M. Riddles (Reg. No. 31,657), Bruce D. DeRenzi (Reg. No. 33,676), Michael M. Murray (Reg. No. 32,537), Mark J. Abate (Reg. No. 32,527), Alfred L. Haffner, Jr. (Reg. No. 18,919), Harold Haidt (Reg. No. 17,509), John T. Gallagher (Reg. No. 35,516), Steven F. Meyer (Reg. No. 35,613) and Kenneth H. Sonnenfeld (Reg. No. 33,285) of Morgan & Finnegan, L.L.P. whose address is: 345 Park Avenue, New York, New York, 10154; and Edward A. Pennington (Reg. No. 32,588), Michael S. Marcus (Reg. No. 31,727) and John E. Hoel (Reg. No. 26,279) of Morgan & Finnegan, L.L.P., whose address is 1775 Eye Street, Suite 400, Washington, D.C. 20006.

[ ] I hereby authorize the U.S. attorneys and/or agents named hereinabove to accept and follow instructions from _____ as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and/or agents and me. In the event of a change in the person(s) from whom instructions may be taken I will so notify the U.S. attorneys and/or agents hereinabove.

Full name of sole or first inventor Keith R. McNally

Inventor's signature* Keith R. McNally 10/25/99
date

Residence ~~21567 Parvin Drive, Santa Clarita, CA 91350~~ 5104 Seagrove Cove, San Diego CA 92130

Citizenship USA

Post Office Address _____

Full name of second joint inventor, if any William H. Roof

Inventor's signature* William H. Roof 10/25/99
date

Residence 13429 Luckett Court, San Diego, CA 92130

Citizenship USA

Post Office Address _____

Full name of third joint inventor, if any Richard Bergfeld

Inventor's signature* 10/25/99
date

Residence 20719 Nashville ~~Court~~ Street, Chatsworth, CA 91311

Citizenship USA

Post Office Address _____

[ ] ATTACHED IS/ARE ADDED PAGE(S) TO COMBINED DECLARATION AND POWER OF ATTORNEY FORM FOR SIGNATURE BY FOURTH AND SUBSEQUENT INVENTORS

* Before signing this declaration, each person signing must:

1. Review the declaration and verify the correctness of all information therein; and

2. Review the specification and the claims, including any amendments made to the claims.

After the declaration is signed, the specification and claims are not to be altered.

To the inventor(s):

The following are cited in or pertinent to the declaration attached to the accompanying application:

Title 37, Code of Federal Regulation, § 1.56

Duty to disclose information material to patentability.

(a) A patent by its very nature is affect with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

Title 35, U.S. Code § 101

Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Title 35 U.S. Code § 102

Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent,

(b) the invention was patented or described in a printed publication in this or 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, or

(c) he has abandoned the invention, or

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate field more than twelve months before the filing of the application in the United States, or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or

(f) he did not himself invent the subject matter sought to be patented, or

(g) before the applicant's invention thereof the invention was made in this country by another had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other ...

Title 35, U.S. Code § 103

Conditions for patentability; non-obvious subject matter

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

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed

invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, U.S. Code § 112 (in part)

Specification

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

Title 35, U.S. Code § 119

Benefit of earlier filing date in foreign country; right of priority

An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of he actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

Title 35, U.S. Code § 120

Benefit or earlier filing date in the United States

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

Please read carefully before signing the Declaration attached to the accompanying Application.

If you have any questions, please contact Morgan & Finnegan, L.L.P.

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04/26/2005 HGUTEMA1 00000031 134500 11112990

01 FC:2011		150.00	OP
02 FC:2111		250.00	OP
03 FC:2311		100.00	OP
04 FC:2201		900.00	OP
05 FC:2202		2075.00	OP
06 FC:2203	25.00 DA	155.00	OP

PTO-1556
(5/87)

*U.S. Government Printing Office: 2002 — 489-257/69033

PATENT APPLICATION FEE DETERMINATION RECORD
Effective December 8, 2004

11/12990

CLAIMS AS FILED - PART I

	(Column 1)	(Column 2)
TOTAL CLAIMS	103	
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	183 minus 20=	* 83
INDEPENDENT CLAIMS	12 minus 3 =	* 9
MULTIPLE DEPENDENT CLAIM PRESENT		☒

* If the difference in column 1 is less than zero, enter "0" in column 2

SMALL ENTITY TYPE ☐		OR	OTHER THAN SMALL ENTITY	
RATE	FEE		RATE	FEE
BASIC FEE	150.00	OR	BASIC FEE	300.00
X$ 25=	2075	OR	X$50=	
X100=	900	OR	X200=	
+180=	180	OR	+360=	
TOTAL	3305	OR	TOTAL	

CLAIMS AS AMENDED - PART II

AMENDMENT A

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 25=		OR	X$50=	
X100=		OR	X200=	
+180=		OR	+360=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

AMENDMENT B

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 25=		OR	X$50=	
X100=		OR	X200=	
+180=		OR	+360=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

AMENDMENT C

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 25=		OR	X$50=	
X100=		OR	X200=	
+180=		OR	+360=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Docket No. 3125-4003US1
Serial No. Continuation of 10/016,517

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	McNally et al.		
		Group Art Unit:	2173 (parent case)
Serial No.:	Continuation of 10/016,517		
		Examiner:	Cao Nguyen (parent case)
Filed:	HEREWITH		

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

PRELIMINARY AMENDMENT

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

Sir:

Prior to examination, please amend the Application as follows.

No fees are believed due in connection with this Amendment. However, in the event any fees are necessitated by this Amendment, the Commissioner is hereby authorized to charge our deposit account no. 13-4500, order no. 3125-4003US1.

Amendments to the Claims begin on page 2
Remarks begin on page 23

Amendments to the Claims

The following listing of claims replaces all prior versions of the claims in the Application. With this Amendment, claims 1-16 are cancelled without prejudice or disclaimer, and claims 17-102 are added. No new matter has been added.

Listing of Claims

1-16 (Cancelled)

17. (New) An information management and synchronous communications system for generating menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a graphical user interface,

d. a first menu stored on said data storage device,

e. application software for generating a second menu from said first menu,

wherein the application software facilitates the generation of the second menu by allowing selection of items from the first menu, addition of items to the second menu and assignment of parameters to items in the second menu using the graphical user interface of said operating system and wherein data comprising the second menu is synchronized between the

data storage device connected to the central processing unit and at least one other computing device.

18. (New) An information management and synchronous communications system in accordance with claim 17, wherein the second menu is a restaurant menu.

19. (New) An information management and synchronous communications system in accordance with claim 17, wherein the second menu is capable of being displayed on the display screen of a wireless computing device.

20. (New) An information management and synchronous communications system in accordance with claim 19, wherein selections from the second menu are capable of being transmitted to a receiving computer by wireless link.

21. (New) An information management and synchronous communications system in accordance with claim 17, wherein the second menu is capable of being displayed on display screens of computers in a network.

22. (New) An information management and synchronous communications system in accordance with claim 21, wherein the computer network is the internet.

23. (New) An information management and synchronous communications system in accordance with claim 19, wherein selections from the second menu are capable of being transmitted to a

receiving computer via the internet.

24. (New) An information management and synchronous communications system in accordance with claim 17, wherein the second menu is created in conformity with hypertext markup language or extensible markup language.

25. (New) An information management and synchronous communications system in accordance with claim 17, wherein the second menu overwrites the first menu.

26. (New) The information management and synchronous communications system of claim 17, wherein the first menu and the second menu are both capable of being displayed in the same window on the display screen.

27. (New) The information management and synchronous communications system of claim 17, wherein the items comprising the second menu are a subset of the items comprising the first menu.

28. (New) An information management and synchronous communications system for generating menus comprising:

a. a microprocessor,

b. a display device,

c. a data and instruction input device,

d. a data storage device for storing information and instructions entered through said data and instruction input means or information generated by said microprocessor,

e. an operating system,

f. a master menu stored on said data storage device for generating a modified menu, and

g. application software,

wherein said microprocessor, operating system and application software are operative to display the master menu on the display device in response to instructions programmed into said microprocessor, operating system, application software and information and instructions entered through said data input device, and wherein said microprocessor, operating system and application software are operative to create the modified menu from said master menu in response to information and instructions entered through said data and instruction input device and wherein data comprising the modified menu is synchronized between the data storage device and at least one other computing device.

29. (New) The information management and synchronous communications system of claim 28, further comprising means for transferring the modified menu to a digital computing device.

30. (New) The information management and synchronous communications system of claim 29, wherein the digital computing device is a wireless handheld device.

31. (New) The information management and synchronous communications system of claim 28, further comprising means for downloading the modified menu to the internet or a Web page.

32. (New) The information management and synchronous communications system of claim 31, further comprising means for converting the modified menu to hypertext markup language or extensible markup language.

33. (New) The information management and synchronous communications system of claim 31, wherein the items comprising the modified menu are a subset of the items comprising the master menu.

34. (New) An information management and synchronous communications system in accordance with claim 28, wherein said operating system includes a graphical user interface and wherein said microprocessor, operating system and application software are operative to generate the modified menu by facilitating selection of items from said master menu using the graphical user interface of said operating system.

35. (New) An information management and synchronous communications system in accordance with claim 28, wherein said master menu is organized in a hierarchical tree structure having branches comprising menu items and wherein the modified menu is at least partially generated by selecting items from the branches of the tree structure.

36. (New) In a computer system having an input device, a storage device, a video display, an

operating system including a graphical user interface and application software, an information management and synchronous communications method comprising the steps of:

a. outputting at least one window on the video display;

b. outputting a first menu in a window on the video display;

c. displaying a cursor on the video display;

d. selecting items from the first menu with the input device or the graphical user interface;

e. inserting the items selected from the first menu into a second menu, the second menu being output in a window;

f. optionally adding additional items not included in the first menu to the second menu using the input device or the graphical user interface;

g. storing the second menu on the storage device; and

h. synchronizing the data comprising the second menu between the storage device and at least one other data storage medium, wherein the other data storage medium is connected to or is part of a different computing device.

37. (New) The method of claim 36, further comprising the step of transferring data or instructions representative of the second menu to a remote digital device or Web page.

38. (New) The method of claim 37, wherein said data or instructions representative of the second menu are transferred by a wireless link.

39. (New) The method of claim 36, wherein the selected items and optional additional items are inserted into a second menu which is displayed in the same window as the first menu.

40. (New) The method of claim 37, comprising the further steps of selecting at least one item from the second menu and transmitting at least one item selected to another computer.

41. (New) The method of claim 40, wherein at least one item selected from the second menu is transmitted to another computer by wireless link or the internet.

42. (New) The method of claim 37, wherein the second menu is displayed on the remote digital device or Web page in page format.

43. (New) The method of claim 36, wherein the second menu overwrites the first menu.

44. (New) The method of claim 36, wherein the items comprising the second menu are a subset of the items comprising the first menu.

45. (New) An information management and synchronous communications system for use with wireless handheld computing devices and hospitality computing systems comprising:

a. a central database containing hospitality applications and data,

b. at least one wireless handheld computing device on which hospitality applications and data are stored or displayed,

c. an application program interface, and

d. a communications control module;

wherein applications or data are synchronized wirelessly between the central database and at least one wireless handheld computing device and wherein the applications program interface and communications control module establish a seamless link between the data in the central database and the data on the wireless handheld computing device.

46. (New) The information management and synchronous communications system of claim 45 wherein the communications control module and the application program interface enable the automatic generation of and updating of operator menus or screens on the handheld computer based on data from the central hospitality database.

47. (New) The information management and synchronous communications system of claim 46 wherein messaging formats are used which are in conformity with HTML or XML messaging formats.

48. (New) An information management and synchronous communications system for use with

wireless handheld computing devices and hospitality applications comprising:

a. a central database containing hospitality applications and data,

b. at least one wireless computing device,

c. at least one wireless paging or beeper device,

d. an applications program interface, and

e. a communications control module;

wherein hospitality applications or data are synchronized between the central database, at least one wireless computing device and at least one wireless paging or beeper device and wherein messaging to the wireless paging or beeper device is enabled directly from the operator interface of the wireless computing device.

49. (New) An information management and synchronous communications system comprising:

a. a central database containing applications and data,

b. a first computing device associated with the central database,

c. a second computing device associated with a second storage medium containing applications and data,

d. an applications program interface, and

e. a communications control module;

wherein applications or data are synchronized between the central database and the second storage medium and wherein the applications program interface and communications control module establish a seamless link between the data in the central database and the data on

the second storage medium.

50. (New) The information management and synchronous communications system of claim 49 wherein the communications control module and the applications program interface enable the automatic generation of and updating of operator menus or screens on the second computing device based on data from the central database.

51. (New) The information management and synchronous communications system of claim 17 wherein the second menu is generated by manually selecting items from the first menu, adding items to the second menu or assigning parameters to items in the second menu.

52. (New) The information management and synchronous communications system of claim 17 wherein the data is synchronized by digital transmission between the data storage device connected to the central processing unit and at least one other computing device.

53. (New) The information management and synchronous communications system of claim 28 wherein the modified menu is generated by manually selecting items from the master menu.

54. (New) The information management and synchronous communications system of claim 28 wherein the data is synchronized by digital transmission between the data storage device and at least one other computing device.

55. (New) The computer system of claim 36 wherein the data is synchronized by digital

transmission between the storage device and at least one other data storage medium.

56. (New) The information management and synchronous communications system of claim 45 wherein the applications or data are synchronized by digital data transmission between the central database and at least one wireless handheld computing device.

57. (New) The information management and synchronous communications system of claim 48 wherein the applications or data are synchronized by digital data transmission between the central database, at least one wireless computing device and at least one wireless paging or beeper device.

58. (New) The information management and synchronous communication system of claim 45, 48, or 49 wherein the synchronized data relates to orders.

59. (New) The information management and synchronous communication system of claim 45, 48, or 49 wherein the synchronized data relates to waitlists

60. (New) The information management and synchronous communication system of claim 45, 48, or 49 wherein the synchronized data relates to reservations.

61. (New) The information management and synchronous communication system of claim 45 or 48 wherein the synchronized data is sent from at least one of the wireless computing devices to a receiver at a valet parking base station.

62. (New) The information management and synchronous communication system of claim 45 or 48 wherein the synchronized data is sent from at least one of the wireless computing devices to a wireless paging device.

63. (New) The information management and synchronous communication system of claim 49 wherein the synchronized data is sent from said second computing device to a receiver at a valet parking base station.

64. (New) The information management and synchronous communication system of claim 49 wherein the synchronized data is sent from said second computing device to a wireless paging device.

65. (New) The information management and synchronous communication system of claim 17 wherein said application software acts to facilitate generation of the second menu such that the second menu is appropriate for a specified time of day.

66. (New) The information management and synchronous communication system of claim 17 wherein said application software further facilitates the generation of multiple menus, each of said multiple menus being appropriate for a particular time of day.

67. (New) The information management and synchronous communication system of claim 17 wherein the facilitation of second menu generation by said application software takes into

account specified parameters, such that the second menu so generated includes items that satisfy the specified parameters.

68. (New) The information management and synchronous communication system of claim 67 wherein the second menu so generated further includes manually selected items.

69. (New) The information management and synchronous communication system of claim 17 wherein the second menu is applicable to table-based customer ordering.

70. (New) The information management and synchronous communication system of claim 17 wherein the second menu is applicable to drive-through customer ordering.

71. (New) The information management and synchronous communication system of claim 17 wherein the second menu is applicable to customer ordering via internet.

72. (New) The information management and synchronous communication system of claim 17 wherein the second menu is applicable to customer ordering via telephone.

73. (New) The information management and synchronous communication system of claim 17 wherein the second menu is applicable to customer ordering via wireless device.

74. (New) The information management and synchronous communication system of claim 67 wherein said specified parameters involve recipe content.

75. (New) The information management and synchronous communication system of claim 28 wherein said microprocessor, operating system, and application software are further operative to create said modified menu such that the modified menu is appropriate for a specified time of day.

76. (New) The information management and synchronous communication system of claim 28 wherein said microprocessor, operating system, and application software are further operative to create multiple menus, each of said multiple menus being appropriate for a particular time of day.

77. (New) The information management and synchronous communication system of claim 28 wherein the creation of said modified menu by said microprocessor, operating system, and application software takes into account specified parameters, such that the modified menu so created includes items that satisfy the specified parameters.

78. (New) The information management and synchronous communication system of claim 77 wherein the modified menu so generated further includes manually selected items.

79. (New) The information management and synchronous communication system of claim 28 wherein the modified menu is applicable to table-based customer ordering.

80. (New) The information management and synchronous communication system of claim 28 wherein the modified menu is applicable to drive-through customer ordering.

81. (New) The information management and synchronous communication system of claim 28 wherein the modified menu is applicable to customer ordering via internet.

82. (New) The information management and synchronous communication system of claim 28 wherein the modified menu is applicable to customer ordering via telephone.

83. (New) The information management and synchronous communication system of claim 28 wherein the modified menu is applicable to customer ordering via wireless device.

84. (New) The information management and synchronous communication system of claim 77 wherein said specified parameters involve recipe content.

85. (New) The method of claim 36 wherein said application software acts to facilitate generation of the second menu such that the second menu is appropriate for a specified time of day.

86. (New) The method of claim 36 wherein said application software facilitates the generation of multiple menus, each of said multiple menus being appropriate for a particular time of day.

87. (New) The method of claim 36 wherein said application software acts to facilitate generation of the second menu, the taking into account specified parameters such that the second menu so generated includes items that satisfy the specified parameters.

88. (New) The method of claim 87 wherein the second menu so generated further includes manually selected items.

89. (New) The method of claim 36 wherein the second menu is applicable to table-based customer ordering.

90. (New) The method of claim 36 wherein the second menu is applicable to drive-through customer ordering.

91. (New) The method of claim 36 wherein the second menu is applicable to customer ordering via internet.

92. (New) The method of claim 36 wherein the second menu is applicable to customer ordering via telephone.

93. (New) The method of claim 36 wherein the second menu is applicable to customer ordering via wireless device.

94. (New) The information management and synchronous communication system of claim 61 wherein a non-simultaneous protocol is used to acknowledge receipt of the data at the valet parking base station.

95. (New) An information management and synchronous communications system for use with

wireless handheld computing devices and computing systems comprising:

a. a central database containing gaming or casino applications and data,

b. at least one wireless handheld computing device on which gaming or casino applications and data are stored or displayed,

c. an application program interface, and

d. a communications control module;

wherein gaming or casino applications or data are synchronized wirelessly between the central database and at least one wireless handheld computing device and wherein the applications program interface and communications control module establish a seamless link between the data in the central database and the data on the wireless handheld computing device.

96. (New) An information management and synchronous communications system comprising:

a. a central database containing gaming or casino applications and data,

b. a first computing device associated with the central database,

c. a second computing device associated with a second storage medium containing gaming or casino applications and data,

d. an applications program interface, and

e. a communications control module;

wherein applications or data are synchronized between the central database and the second storage medium and wherein the applications program interface and communications control module establish a seamless link between the data in the central database and the data on the second storage medium.

97. (New) An information management and synchronous communications system for use with cell phones and computing systems comprising:

a. a central database containing hair salon applications and data,

b. at least one cell phone on which hair salon applications and data are stored or displayed,

c. an application program interface, and

d. a communications control module;

wherein hair salon applications or data are synchronized wirelessly between the central database and at least one cell phone and wherein the applications program interface and communications control module establish a seamless link between the data in the central database and the data on the cell phone.

98. (New) The information management and synchronous communications system of claim 97, wherein reservations data is synchronized.

99. (New) The information management and synchronous communications system of claim 97, wherein waitlist data is synchronized.

100. (New) An information management and synchronous communications system comprising:

a. a central database containing gaming or casino applications and data,

b. a first computing device associated with the central database,

c. a second computing device associated with a second storage medium containing gaming or casino applications and data,

d. at least one web server,

e. an applications program interface, and

f. a communications control module;

wherein applications or data are synchronized between the central database, the second storage medium, and the web server and wherein the applications program interface and communications control module establish a seamless link between the data in the central database, the data on the second storage medium, and data on the web server.

101. (New) An information management and synchronous communications system for use with wireless handheld computing devices, the internet, and computing systems comprising:

a. a central database containing hair salon applications and data,

b. at least one wireless handheld computing device on which hair salon applications and data are stored or displayed,

c. at least one web server,

d. an application program interface, and

e. a communications control module;

wherein hair salon applications or data are synchronized wirelessly between the central database, the web server, and at least one wireless handheld computing device and wherein the applications program interface and communications control module establish a seamless link between the data in the central database, the data on the wireless handheld computing device, and data on the web server.

102. (New) An information management and synchronous communications system for use with wireless handheld computing devices and computing systems comprising:

a. a central database containing hair salon applications and data,

b. at least one wireless handheld computing device on which hair salon applications and data are stored or displayed,

c. an application program interface, and

d. a communications control module;

wherein hair salon applications or data are synchronized wirelessly between the central database and at least one wireless handheld computing device and wherein the applications program

interface and communications control module establish a seamless link between the data in the central database and the data on the wireless handheld computing device.

REMARKS

I. Status of the Claims

With this Amendment, claims 1-16 are cancelled without prejudice or disclaimer and claims 17-102 are added. Claims identical to claims 17-94 were previously pending in U.S. Patent Application Serial No. 10/015,729, filed November 1, 2001.

Claims identical to claims 17-35, 36-44, and 51-55 were previously rejected under 35 U.S.C. 102(e) as being anticipated by Cupps et al. (U.S. Patent No. 5,991,739).

Claims identical to claims 45-50 and 56-57 were previously rejected under 35 U.S.C. 103(a) as being unpatentable over Cupps in view of Behr (U.S. Patent No. 6,107,944).

Of the pending claims for which identical claims were previously rejected, claims 17, 28, 36, 45, 48, and 49 are independent.

II. Rejections Under 35 U.S.C. 102(e)

Claims identical to independent claims 17, 28, and 36 were previously rejected under 35 U.S.C. 102(e) as being anticipated by Cupps et al.

With regard to claims identical to independent claims 17, 28, and 36 of the present application, the Examiner argues that at lines 35-65 of column 9 and in figs. 2 and 3a-3f, Cupps discloses information synchronization involving a second or modified menu. However Applicants respectfully disagree.

The first section cited by the examiner, column 9 lines 35-65, fails to disclose information synchronization involving a second or modified menu, nor any other sort of information synchronization. This section instead discloses a customer providing to an online ordering machine registration information, location information, time of day information, and an

indication of the type of service sought (e.g., takeout or delivery).

The second section cited by the examiner, Fig. 2, is a system overview showing an online ordering machine component, a client machine component connected to the online ordering machine via a network, and telephone and fax components connected to the online ordering machine via standard telephone lines. Also shown are various elements of the online ordering machine and the client machine. However, nowhere in the figure or its corresponding disclosure is there any indication of synchronization involving a second or modified menu. More generally, there is no disclosure of information synchronization occurring between any components of the system, nor is there disclosure of any other sort of information synchronization.

The third section cited by the examiner, Figs. 3a-3f, fails to disclose synchronization involving a second or modified menu and instead discloses the "schema" – that is the organization and structure – of the order database 128 (see Cupps, Col. 5 Ln. 21). Nowhere in the figures or in the corresponding disclosure is there even any indication that the order database is involved in any sort of information synchronization. In fact, there is no disclosure of any sort of information synchronization in this section.

Furthermore, the remainder of the Cupps disclosure also fails to disclose synchronization involving a second or modified menu, nor any other sort of information synchronization.

Accordingly, Cupps fails to disclose at least the aspect of independent claim 17 wherein:

> "... data comprising the second menu is synchronized between the data storage device connected to the central processing unit and at least one other computing device ..." (emphasis added).

Similarly, Cupps also fails to disclose at least the aspect of independent claim 28 wherein:

> " ... data comprising the modified menu is synchronized between the data storage device and at least one other computing device..."
> (emphasis added).

Furthermore, Cupps fails to disclose at least the aspect of independent claim 36 wherein:

> " ... synchronizing the data comprising the second menu between the storage device and at least one other data storage medium, wherein the other data storage medium is connected to or is part of a different computing device..."
> (emphasis added).

The disclosure of the present invention explains that according to the claimed synchronization there is, for example:

> " ... fast synchronization between a central database and multiple handheld devices, synchronization and communication between a Web server and multiple handheld devices, a well-defined API that enables third parties such as POS companies, affinity program companies and internet content providers to fully integrate with computerized hospitality applications, real-time communication over the internet with direct connections or regular modem dialup connections and support for batch processing that can be done periodically throughout the day to keep multiple sites in synch with the central database"
> (see disclosure, p. 9 ln. 21 – p. 10 ln. 4; emphasis added).

As another example, the disclosure of the present invention notes that according to such synchronization:

> " ... a reservation made online can be automatically communicated to the backoffice server and then synchronized with all the wireless handheld devices wirelessly. Similarly, changes made on any of the wireless handheld devices are reflected instantaneously on the backoffice server Web pages and the other handheld

devices"
(see disclosure, p. 10 ln. 15-19; emphasis added).

In light of the above, Applicants submit that independent claims 17, 28, and 36 are in condition for allowance. Those claims that depend therefrom, for at least the above-identified reasons, are also thought to be allowable.

III. Rejections Under 35 U.S.C. 103(a)

Claims identical to independent claims 45, 48, and 49 were previously rejected under 35 U.S.C. 103(a) as being unpatentable over Cupps in view of Behr.

As explained above, Cupps fails to disclose any sort of information synchronization. Furthermore, Applicants find no disclosure in Behr of any sort of information synchronization, nor does the Examiner provide any reference to such disclosure in Behr.

Applicants therefore submit that Cups and Behr, alone or in combination, fail to disclose, teach, or suggest at least the aspect of independent claim 45 wherein:

> "... applications or data are synchronized wirelessly between the central database and at least one wireless handheld computing device and wherein the applications program interface and communications control module establish a seamless link between the data in the central database and the data on the wireless handheld computing device.."
> (emphasis added).

Similarly, Cups and Behr, alone or in combination, fail to disclose, teach, or suggest at least the aspect of independent claim 48 wherein:

> " ... hospitality applications or data are synchronized between the central database, at least one wireless computing device and at least one wireless paging or beeper device and wherein messaging to the wireless paging or beeper device is enabled directly from the operator interface of the wireless computing device"
> (emphasis added).

Furthermore, Cups and Behr, alone or in combination, fail to disclose, teach, or suggest at least the aspect of independent claim 49 wherein:

> " ... applications or data are synchronized between the central database and the second storage medium and wherein the applications program interface and communications control module establish a seamless link between the data in the central database and the data on the second storage medium."
> (emphasis added).

The Examiner also states:

> "Behr teaches wireless handheld computing device on which hospitality application (see col. 14, lines 1-57)".

Applicants respectfully disagree. Behr discloses "a method of providing route guidance information and other information from a base unit to a mobile unit in response to a request from the mobile unit" (see Behr, Col. 4 Ln. 28-31). Behr explains that the mobile unit sends the request for route guidance as a "query message 120" including a "destination field 144" and a "destination type field 146", and, for example , that the "destination type field 146 may be 'restaurant', and the destination field 144 may be 'McDonald's'" (see Behr, Col. 14 Ln. 37-44). Behr also discloses that other specifiable destinations include "airport[s]" and "museum[s]" (see Behr, Col. 14 Ln. 42).

However, Applicants submit that simply stating that a mobile unit may request from a navigation system directions to a restaurant does not constitute disclosure of a hospitality software application. As known in the art, a hospitality software application is, for example, a piece of software used to provide operational solutions in hospitality industries such as restaurants and hotels concerning, for example, food ordering, menus, wait-lists and reservations. Accordingly, Applicants submit that Behr fails to teach a "wireless handheld computing device on which hospitality application" as suggested by the Examiner.

In light of at least the above, Applicants submit that independent claims 45, 48, and 49 are in condition for allowance. Those claims that depend therefrom, for at least the above-identified reasons, are also thought to be allowable.

IV. New Claims 95-102

With this amendment, new claims 95-102 are added. No new matter has been added.

Applicants respectfully submit that these claims are allowable over the cited art and in condition for allowance.

V. Conclusion

No new matter is added by this Amendment. Entry hereof is respectfully requested prior to examination on the merits.

Applicants respectfully submit that this Application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this Application in any way, the Examiner is invited to contact the undersigned at the number provided.

VI. Authorization

The Commissioner is hereby authorized to charge any fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 3125-4003US1. **A DUPLICATE OF THIS DOCUMENT IS ATTACHED.**

Furthermore, in the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response

In light of at least the above, Applicants submit that independent claims 45, 48, and 49 are in condition for allowance. Those claims that depend therefrom, for at least the above-identified reasons, are also thought to be allowable.

IV. New Claims 95-102

With this amendment, new claims 95-102 are added. No new matter has been added.

Applicants respectfully submit that these claims are allowable over the cited art and in condition for allowance.

V. Conclusion

No new matter is added by this Amendment. Entry hereof is respectfully requested prior to examination on the merits.

Applicants respectfully submit that this Application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this Application in any way, the Examiner is invited to contact the undersigned at the number provided.

VI. Authorization

The Commissioner is hereby authorized to charge any fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 3125-4003US1. **A DUPLICATE OF THIS DOCUMENT IS ATTACHED.**

Furthermore, in the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response

timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-noted Deposit Account and Order No.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: April 22, 2005

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CLAIMS ONLY	SERIAL NO.	FILING DATE
	APPLICANT(S)	

CLAIMS

	AS FILED		AFTER 1ST AMENDMENT		AFTER 2ND AMENDMENT											
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47							97	1								
48	1						98									
49	1						99									
50							100	1								
TOTAL IND.							TOTAL IND.									
TOTAL DEP.							TOTAL DEP.									
TOTAL CLAIMS							TOTAL CLAIMS									

PTO-2202 (Replication only) (1/03)

CLAIMS ONLY	SERIAL NO.	FILING DATE
	APPLICANT(S)	

CLAIMS

	AS FILED		AFTER 1ST AMENDMENT		AFTER 2ND AMENDMENT									
	IND	DEP	IND	DEP	IND	DEP		IND	DEP	IND	DEP	IND	DEP	
1	1						51							
2	1						52							
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48							98							
49							99							
50							100							
TOTAL IND.	12						TOTAL IND.							
TOTAL DEP.	90						TOTAL DEP.							
TOTAL CLAIMS	102						TOTAL CLAIMS							

PTO-2202 (Application only) (1/03)

Document code: WFEE

United States Patent and Trademark Office
Sales Receipt for Accounting Date: 06/16/2008

CBETANCO SALE #00000001 Mailroom Dt: 04/22/2005 134500 11112990
01 FC : 2202 50.00 DA

PATENT APPLICATION SERIAL NO. 11112990

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

BEST AVAILABLE COPY

04/26/2005 HGUTEMA1 00000031 134500 11112990

01 FC:2011 150.00 OP
02 FC:2111 250.00 OP
03 FC:2311 100.00 OP
04 FC:2201 900.00 OP
05 FC:2202 2075.00 OP
06 FC:2203 25.00 DA 155.00 OP

05/26/2005 BHABTEW 00000016 134500 11112990

01 FC:2202 200.00 DA

Adjustment date: 06/03/2005 BHABTEW
05/26/2005 BHABTEW 00000016 134500 11112990
01 FC:2202 200.00 CR

Adjustment date: 06/03/2005 BHABTEW
04/26/2005 HGUTEMA1 00000031 11112990
05 FC:2202 -2075.00 OP

PTO-1556
(5/87)

06/03/2005 BHABTEW 00000004 11112990

01 FC:2202 1875.00 OP

Repln. Ref: [illegible] 0010413300
DA#:134500 Name/Number:11112990
FC: 9204 $200.00 CR

OIPE JC105
JUN 29 2005
PATENT & TRADEMARK OFFICE

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): McNally et al.

Group Art Unit: 2122

Serial No.: 11/112,990

Examiner: TBA

Filed: April 22, 2005

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

EXPRESS MAIL CERTIFICATE

Office of Initial Patent Examination - - Filing Receipt Corrections
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Express Mail Label No.: EV 622 482 354 US

Date of Deposit: June 29, 2005

I hereby certify that the following attached paper(s) and/or fee

1. Request for Corrected Official Filing Receipt - 1 page (in duplicate)
2. Copy of Filing Receipt marked-up in red ink - 2 pages
3. Identification of Less Than Ten Attorneys To Be Made of Record From Listing in Originally Filed Power of Attorney - 2 pages
4. Exhibit A: copy of official filing receipt - 2 pages
5. Exhibit B: copy of 69 Fed. Reg. 29865, 29867 (May 26, 2004) - 16 pages
6. Exhibit C: copy of executed Combined Declaration/Power of Attorney as filed - 6 pages
7. Postcard for Receipt Acknowledgement

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to: Office of Initial Patent Examination – Filing Receipt Corrections, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Albert Isles
(Typed or printed name of person mailing papers(s) and/or fee)

(Signature of person mailing paper(s) and/or fee)

Correspondence Address:
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3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

07-01-05

IFW

OIPE JC105 JUL 29 2005 TRADEMARK OFFICE

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): McNally et al.

Group Art Unit: 2122

Serial No.: 11/112,990

Examiner: TBA

Filed: April 22, 2005

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

REQUEST FOR CORRECTED OFFICIAL FILING RECEIPT

Office of Initial Patent Examination-- Filing Receipt Corrections
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A corrected filing receipt is hereby requested in view of the errors which appear in the original. For the convenience of the Patent and Trademark Office, attached is a photocopy of the original receipt on which the errors have been highlighted. Specifically, in the Power of Attorney Section the name of at least one attorney needs to be inserted. Please delete "None" and insert – HARRY C. MARCUS (REG. NO. 22,390) --.

The Commissioner is hereby authorized to charge any fees which may be required by this paper, or credit any overpayment to Deposit Account No. 13-4500, Order No. 3125-4003US1. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: June 29, 2005

By: _____
Angus R. Gill
Registration No. 51,133

Correspondence Address:
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3 World Financial Center
New York, NY 10281-2101
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(212) 415-8701 Facsimile

928851 v1

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/112,990	04/22/2005	2122	3455	3125-4003US1	8	86	12

CONFIRMATION NO. 7098

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101

OIPE JC105 JUN 29 2005 PATENT & TRADEMARK OFFICE

FILING RECEIPT

OC000000016193566

Date Mailed: 06/03/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Keith R. McNally, San Diego, CA;
William H. Roof, San Diego, CA;
Richard Bergfeld, Chatsworth, CA;

CASE 3125-4003 us1 ATTY AG
INFORMATION DISCLOSURE STATEMENT 11-22-05
FOREIGN FILING
CONVENTION DATE EXPIRES

Power of Attorney: ~~None~~ HARRY C. MARCUS (REG. NO. 22,390)

Domestic Priority data as claimed by applicant

This application is a CON of 10/016,517 11/01/2001
which is a CIP of 09/400,413 09/21/1999 PAT 6,384,850

Foreign Applications

If Required, Foreign Filing License Granted: 06/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/112,990

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders

Preliminary Class

370

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

OIPE JC105
JUN 29 2005
PATENT & TRADEMARK OFFICE

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): McNally et al.

Group Art Unit: 2122

Serial No.: 11/112,990

Examiner: TBA

Filed: April 22, 2005

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

IDENTIFICATION OF LESS THAN TEN ATTORNEYS TO BE MADE OF RECORD FROM LISTING IN ORIGINALLY FILED POWER OF ATTORNEY

Office of Initial Patent Examination-- Filing Receipt Corrections
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants seek to designate the below identified registered patent attorney(s) to be made of record for the above-identified application.

On April 22, 2005, Applicants filed the above-identified application, employing the Declaration and Power of Attorney of a prior application. The Declaration and Power of Attorney is a fully executed combined Declaration And Power Of Attorney form that lists more than ten registered patent attorneys to whom power of attorney was granted. Pursuant to new 37 C.F.R. §1.32(c), the Filing Receipt dated June 3, 2005 states: "Power of Attorney: None". [Attached as Exhibit A].

These very same circumstances were addressed in the Federal Register notice for new §1.32.

> If more than ten patent practitioners are listed on a power of attorney, and no separate paper under §1.32(c)(3) is filed, then no patent practitioners will be made of record... Applicant may then submit a newly executed power of attorney complying with §1.32, or submit a copy of the previously filed power of attorney accompanied by a separate paper indicating which ten practitioners are to be made of record pursuant to §1.32(c)(3).

69 Fed Reg. 29865, 29867 (May 26, 2004) [attached as Exhibit B]. A copy of the previously filed power of attorney is attached as Exhibit C.

This filing constitutes the "separate paper indicating which ten [or less] practitioners are to be made of record pursuant to §1.32(c)(3)." Applicants designate the following registered patent attorney(s) from the previously filed power of attorney to be made of record for the subject application:

1. Harry C. Marcus (Reg. No. 22,390)

By separate paper filed concurrently herewith, Applicants seek to correct the Filing Receipt to identify the above-listed registered patent attorney(s) as having power of attorney for the above-identified application.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: June 29, 2005

By: _____
Angus R. Gill
Registration No. 51,133

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
Three World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/112,990	04/22/2005	2122	3455	3125-4003US1	8	86	12

OIPE
JUN 29 2005
PATENT & TRADEMARK OFFICE
JC105

CONFIRMATION NO. 7098

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101

FILING RECEIPT

OC000000016193566

Date Mailed: 06/03/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Keith R. McNally, San Diego, CA;
William H. Roof, San Diego, CA;
Richard Bergfeld, Chatsworth, CA;

CASE 3125-4003 us1 ATTY AG
INFORMATION DISCLOSURE
STATEMENT 6-22-05
FOREIGN FILING
CONVENTION DATE EXPIRES

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/016,517 11/01/2001
which is a CIP of 09/400,413 09/21/1999 PAT 6,384,850

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If Required, Foreign Filing License Granted: 06/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/112,990

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

OIPE JC105 JUN 29 2005 PATENT & TRADEMARK OFFICE

Title

Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders

Preliminary Class

370

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

to-navigation position. Navigation at the site of the bridge consists mainly of tows with barges and some recreational pleasure craft. Due to prior experience, as well as coordination with waterway users, it has been determined that this closure will not have a significant effect on these vessels. No alternate routes are available. The bridge will be able to open for emergencies.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 13, 2004.

Marcus Redford,

Bridge Administrator.

[FR Doc. 04–11893 Filed 5–25–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 3 and 5

[Docket No.: 2003–P–019]

RIN 0651–AB63

Revision of Power of Attorney and Assignment Practice

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice to allow for more efficient processing of powers of attorney and assignment documents within the Office. For example, the Office will require applicants to use the Office's Customer Number practice if more than ten registered patent practitioners are to be made of record. In addition, the Office is eliminating some mail stops (*i.e.*, CPA, Provisional Patent Application) that were found not be useful in routing correspondence within the Office, and creating a new mail stop (Licensing and Review) to assist the Office in the proper routing of national security classified and secrecy order papers. Finally, because the Office is discontinuing the current Office practice of returning patent and trademark assignment documents submitted by mail for recording in the assignment database, only copies of assignment documents may be submitted for recording in the Office's Assignment records.

DATES: *Effective Date:* June 25, 2004. Any associate power of attorney filed before this date will continue to be effective.

FOR FURTHER INFORMATION CONTACT: Karin Ferriter ((703) 306–3159) (Office of the Deputy Commissioner for Patent Examination Policy), Mary Hannon ((703) 308–8910, ext. 137) (Office of the Commissioner for Trademarks), or Robert J. Spar ((703) 308–5107) (Office of the Deputy Commissioner for Patent Examination Policy), directly by phone, or by facsimile to (703) 872–9411, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: A purpose of this final rule is to limit the number of patent practitioners that a patent applicant, or an assignee of the patent applicant, can name in a power of attorney. If more than ten registered patent attorneys or registered patent agents are to be appointed, then the Office's Customer Number practice must be used. This change is necessary to eliminate the undue processing burden on the Office when a power of attorney naming more than ten patent practitioners is submitted in patent applications. In addition, a purpose of this final rule is to eliminate the associate power of attorney practice in patent cases. An associate power of attorney is not necessary for a patent practitioner to take most actions in a patent application. Instead of filing an associate power of attorney, a patent practitioner can file an "Authorization to Act in a Representative Capacity" (note the sample form posted on the Office's Internet Web site at: *http://www.uspto.gov/web/forms/sb0084.pdf*). Another purpose of this final rule is to eliminate an original assignment document from the list of documents that may be submitted for recordation. This is because the Office shall no longer be returning assignment documents after they have been scanned into the Office's electronic assignment database, and any assignee that submits the original assignment document will be unable to retrieve the document.

The Office provides for the use of a Customer Number to identify either an address for patent-related correspondence, or a set of patent attorneys and agents who may be identified with a patent application as patent practitioners of record. Customer Number practice permits the correspondence or fee address, or the list of practitioners of record to be easily changed in a large number of patent applications by filing a single request for Customer Number data change. A separate revocation of power of attorney, or appointment of a new power of attorney would not need to be filed in each patent application if a Customer Number Data Change Request (PTO/SB/124) is filed. As a result, if a patent attorney or patent agent is to begin to represent a client, or is discontinuing representation of a client, on a particular set of applications, and, if the power of attorney for that set of applications was originally to the patent practitioners associated with a Customer Number, then the list of patent practitioners associated with the Customer Number should be changed to reflect the addition or deletion. When Customer Number practice is used, a separate document does not need to be filed by applicant for each application in which the list of practitioners associated with the Customer Number is to be changed; only one Customer Number Data Change Request is required to eliminate any patent practitioners who should no longer be associated with the Customer Number. Alternatively, a new power of attorney to a list of patent practitioners or to the patent practitioners associated with a different customer number may be filed in each application in which the power of attorney should be changed.

The rules pertaining to power of attorney are revised to reflect Customer Number practice, a practice wherein an applicant or an assignee of the entire interest of the applicant in a patent application can give power of attorney to a list of registered patent practitioners associated with a Customer Number. *See Manual of Patent Examining Procedure* (8th ed. 2001) (Rev. 1, Feb. 2003) (MPEP), Section 403, for a description of Customer Number practice. The rules are also revised to explain the requirements of a power of attorney and to limit the number of practitioners who may be given a power of attorney without using Customer Number practice. Furthermore, the patent rules are amended to discontinue the "associate" power of attorney practice, to clarify the procedures related to revocation of power of attorney, and to clarify how a registered practitioner may sign a document in a representative capacity.

Documents affecting the title to a patent or trademark property (*e.g.*, assignments, or security interests) are currently recorded in the Office's assignment database, upon submission of the document with the appropriate cover sheet and the fee required by 35 U.S.C. 41(d)(1). In addition, Government Interests are recorded, upon submission of the document, as required by Executive Order 9234 of February 18, 1944 (9 FR 1959, 3 CFR 1943–1948

Comp., p. 303). Since 1995, assignment documents have been recorded in the Office's Assignment database without stamping or otherwise marking the document that was submitted for recordation. The automated system that receives documents for recordation assigns the reel and frame number to the document and places the recordation stampings on the images that are stored in the automated system. The Office is increasing the integrity of its internal patent application record maintenance by adopting a new electronic data processing system for the storage and maintenance of all the records associated with patent applications. The new system includes the process of scanning all incoming papers to create an image file of the papers associated with patent applications. Papers that are scanned are stored, and then destroyed according to a record retention schedule. Consistent with this new practice, the Office will discontinue the practice of returning assignment documents that were mailed to the Office, and will require assignment documents to be submitted on 8½ by 11-inch paper (21.6 by 27.9 cm) ("letter size") or DIN size A4 (21.0 by 29.7 cm).

To assist applicants in identifying the application or patent to which a Notice of Recordation relates, the Notice has been revised to reflect the title of the invention and docket number stored in the Office's electronic records, if the notice of recordation is for a single property (application or patent). Any docket number included on the Assignment Cover sheet will only be used in the Office's electronic financial records for purposes of processing the recordation fee, but will not be entered into other electronic records for the patent or patent application.

Discussion of Specific Rules

The Office is amending sections of 1.1, 1.12, 1.31, 1.33, 1.34, 1.36, 1.53, 1.363, 3.1, 3.21, 3.24, 3.25, 3.27, 3.31, 3.34, 3.41, 3.81, and 5.1 of title 37 of the Code of Federal Regulations (CFR), and adding new § 1.32 to title 37 CFR.

Section 1.1: Section 1.1(a)(4)(i) is amended to add "submitted by mail" and to delete "or under § 3.81 of this chapter" to require that assignments submitted by mail contemporaneously with a request to issue a patent to an assignee be sent to Mail Stop Assignment Recordation Services instead of Mail Stop Issue Fee in order to more efficiently direct assignment documents. Section 1.1 is also amended to remove paragraph (f). The Office has determined that Mail Stop Provisional Patent Application is not useful in the routing of correspondence within the Office.

Section 1.12: Section 1.12(b) is amended to replace "has not been published under 35 U.S.C. 122(b) are not available to the public" with "is open to the public pursuant to § 1.11 or for which copies or access may be supplied pursuant to § 1.14, are available to the public" in order to clarify the assignment records that are available to the public. Section 1.12(b) is further amended to provide that copies of any such assignment records and related information that are not available to the public shall be obtainable only upon written authority of the applicant or applicant's assignee, patent attorney, or patent agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided in part 1.

As revised, § 1.12(b) more clearly provides, for example, for an application that is relied upon under 35 U.S.C. 120 in an application that has issued as a patent, any assignment records relating to the parent application could be considered to relate to the patent. Before the amendment to § 1.12(b), the text of the rule suggested that the assignment records for the parent application were not available to the public. This was not the intended construction, and was inconsistent with MPEP § 301.01. As revised § 1.12(b) provides that the assignment records for the parent application of a patent, or an application that has published under 35 U.S.C. 122(b), are open to public inspection.

Section 1.31: Section 1.31 is amended to revise the title to refer to "registered patent attorney or patent agent" and to introduce the term "power of attorney." Section 1.31 is also revised to add "United States" before "Patent and Trademark Office" in the definition of "Office" to properly reflect the current name of the Office in the rule. See 35 U.S.C. 1(a).

Section 1.32: New § 1.32 sets forth definitions related to power of attorney. Section 1.32 does not apply to power of attorney in an international application (§ 1.455). The terms "power of attorney," "principal," "revocation," and "Customer Number" are defined, and the requirements for a power of attorney are set forth. The term "patent practitioner" is not separately defined, but is a collective reference to a registered patent attorney or registered patent agent.

"Power of attorney" is defined in paragraph (a)(1) of § 1.32 as a written document by which a principal designates a registered patent attorney or a registered patent agent (collectively "patent practitioner") to act on his or her behalf.

"Principal" is defined in paragraph (a)(2) of § 1.32 as either the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant, and the entity who executes a power of attorney designating one or more agents to act on his or her behalf. An appointment by fewer than all of the applicants, or assignees of the entire interest of the applicants requires a petition under § 1.183 to waive the requirement of § 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney.

The term "patentee" has not been included in this definition because use of the term "patentee" would make the rule unnecessarily complicated. Although the term "patentee" often is a reference to the assignee, the patentee could also be the inventors, or if an inventor is deceased or legally incapacitated, the inventors and the legal representative of such an inventor. An inventor who could not be reached or refused to join in the filing of a patent application would not be an applicant as set forth in § 1.41(b), but would still be a patentee, but once a patent has issued, the signature of the nonsigning inventor should still not be required on any power of attorney. Accordingly, the term "patentee" does not necessarily reference the same group of individuals as the term "applicant" and has not been used in the rules so that the applicant, not necessarily the patentee, could change the power of attorney, for example, in an application that has issued as a patent.

"Revocation" is defined in paragraph (a)(3) of § 1.32 as the cancellation by the principal of the authority previously given to a registered patent attorney or registered patent agent to act on his or her behalf.

"Customer Number" is defined in paragraph (a)(4) of § 1.32 to be a number that may be used to: (i) Designate the correspondence address of a patent application or patent such that the correspondence address for the patent application or patent would be the address associated with the Customer Number; (ii) designate the fee address (§ 1.363) of a patent by a Customer Number such that the fee address for the patent would be the address associated with the Customer Number; and (iii) specify, in a power of attorney, that each of the patent practitioners associated

with a Customer Number have a power of attorney.

Section 1.32(b) sets forth the requirements for a power of attorney, other than a power of attorney in an international application (*see* § 1.455 for the power of attorney in an international application and note that Customer Number practice cannot be used in an international application). To comply with § 1.32(b), the power of attorney, in an application other than an international application, must: (1) Be in writing; (2) name one or more representatives in compliance with (c) of this section; (3) give the representative power to act on behalf of the principal; and (4) be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant. Furthermore, pursuant to § 1.32(c), a power of attorney may only name as representative: (1) One or more joint inventors (§ 1.45); (2) those registered patent practitioners associated with a Customer Number; or (3) ten or fewer registered patent attorneys or registered patent agents (see § 10.6 of this subchapter)(patent practitioners). Except as provided in § 1.32(c)(1) or (c)(2), the Office will not recognize more than ten patent practitioners as being of record in an application or patent. If a power of attorney names more than ten patent practitioners, such power of attorney must be accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office as being of record in application or patent to which the power of attorney is directed.

New § 1.32(c)(3) sets a limit on the number of patent practitioners who can be given a power of attorney without using Customer Number practice because it is extremely burdensome for the Office to manually enter a long list of patent practitioners, particularly where the same list of patent practitioners is to be entered for a large number of applications, and to update that listing. Applicants desiring to appoint a large number of patent practitioners may continue to do so, but Customer Number practice will be required in order to have more than ten patent practitioners recognized by the Office as being of record and reflected in Office computer systems. See § 1.32(c)(2).

If more than ten patent practitioners have been named in a combined declaration and power of attorney (*e.g.*, from an earlier filed application (*see* § 1.63(d)(1)(iv))), then the Office of Initial Patent Examination will enter the practitioners indicated on the separate paper filed pursuant to § 1.32(c)(3). If more than ten patent practitioners are listed on a power of attorney, and no separate paper under § 1.32(c)(3) is filed, then no patent practitioners will be made of record. If a separate paper is not provided and a patent practitioner later attempts to sign a batch update request to request that the address associated with the Customer Number be used for the correspondence address and/or the fee address for the patent applications listed on the spreadsheet (*see Notice of Elimination of Batch Update Practice to Change Power of Attorney*, 1272 *Off. Gaz. Patent Office Notices* 24 (July 1, 2003)), the request will be rejected because the patent practitioner is not of record. Applicant may then submit a newly executed power of attorney complying with § 1.32, or submit a copy of the previously filed power of attorney accompanied by a separate paper indicating which ten practitioners are to be made of record pursuant to § 1.32(c)(3).

Customer Number practice allows the Office to enter a single five or six digit number into the Office computer system instead of a large number of patent practitioners and is a more appropriate use of Office resources than continuing to permit applicants to give a power of attorney to an unlimited number of practitioners. *See* MPEP § 403.

Section 1.33: Section 1.33(a) is revised to reflect Customer Number practice. If applicant provides, in a single document, both a complete typed address and a Customer Number and requests that both be used for the correspondence address, the address associated with the Customer Number will be used. Section 1.33(a) is revised to include the following sentence: "If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address." Applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use a correspondence address in more than one paper, priority will be accorded to the correspondence address specified in the following order: (1) Application data sheet (ADS); (2) application transmittal; (3) oath or declaration (unless power of attorney is more current); and (4) power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (*i.e.*, the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to § 1.33(a)(1).

A Customer Number merely provided in correspondence without an instruction to use the Customer Number for the correspondence address or for any other purposes, *e.g.*, a Customer Number that is adjacent the heading of the paper, is not a specific direction to use the Customer Number for any purpose.

Section 1.33(b)(1) is revised to change the reference from § 1.34(b) to new § 1.32(b).

Section 1.33(b)(2) is revised to change § 1.34(a) to § 1.34 to be consistent with the revision to § 1.34.

Section 1.33(c) revised to change the cross-reference to § 1.32(b) instead of § 1.34(b) and to change the reference to § 1.34(a) to § 1.34 to be consistent with the revision to § 1.34.

Section 1.34: Section 1.34 is revised to change the title to "Acting in a Representative Capacity." The paragraph designation for paragraph (a) and ", pursuant to § 1.31," are deleted. In addition, "the registered patent attorney or patent agent should specify his or her registration number with his or her signature" is changed to "the registered patent attorney or patent agent must specify his or her name and the registration number with his or her signature." When a registered patent attorney or patent agent acts in a representative capacity, it should be clear who is signing the paper. Because signatures are not always legible and because sometimes the wrong registration number is given, it is necessary for the registered patent attorney or agent to include his or her name so that the identity of the person who is acting in a representative capacity may be identified.

Paragraph (b) of § 1.34 is deleted. With Customer Number practice, the associate power of attorney practice set forth in § 1.34(b) is no longer necessary because once power of attorney is given to the patent practitioners associated with a Customer Number, the list of patent practitioners of record may easily be changed. Additionally, for a patent practitioner to have the most information with which to represent his client, the patent practitioner needs to

have access to the private Patent Application Information Retrieval (private PAIR) system on the Office's Internet Web site (*http://PAIR.uspto.gov*), and a patent practitioner can only have direct access to private PAIR if he or she is associated with the Customer Number, and if the Customer Number is used for the correspondence address of the application. Private PAIR provides patent practitioners with access to the Office's computer systems that track the patent file history, and, if the application is maintained in the Image File Wrapper (IFW) system, access to the images of the documents in the file history. Furthermore, private PAIR provides *pro se* applicants and patent practitioners with information about recently mailed correspondence from the Office for a particular Customer Number. Furthermore, private PAIR provides an explanation of any patent term extension or patent term adjustment calculations for the patent application. A patent practitioner who does not have access to private PAIR is disadvantaged in representing a client compared to a practitioner who has access to private PAIR. See the discussion with respect to comment 9 below.

A government entity or assignee may have multiple law firms or sets of attorneys working on their patent applications. Such an entity should consider having multiple Customer Numbers, with a separate Customer Number for each set of patent attorneys, and having at least one in-house patent practitioner listed on each listing of patent practitioners associated with a Customer Number so that the government entity or assignee has access to private PAIR for all of their patent applications.

An applicant or assignee of the entire interest of the applicant who gives a power of attorney to a limited number of patent practitioners has expressed a desire to be represented by only those patent practitioners. As § 1.34 is revised, if Customer Number practice is not used, an applicant or assignee of the entire interest of the applicant will be required to sign a new power of attorney in order for an associate practitioner to be "of record" in addition to the specifically identified principal patent practitioner. Of course, a registered patent practitioner may still act in a representative capacity pursuant to § 1.34 (by providing his or her name and a registration number with his or her signature), and the rule changes do not change this flexibility. A patent practitioner who is acting in a representative capacity pursuant to § 1.34 may conduct an interview with an examiner. *See* MPEP § 713.05. A patent practitioner who is acting in a representative capacity can also file amendments and other papers (§ 1.33(b)(2)). A patent practitioner who is acting in a representative capacity pursuant to § 1.34 may not, however, change the correspondence address (§ 1.33(a)(2)) (except where an executed oath or declaration has not been filed, and the patent practitioner filed the application)), expressly abandon the application without filing a continuing application (§ 1.138(b)), or sign a terminal disclaimer (§ 1.321(b)(1)(iv)). A patent practitioner who is signing on behalf of the assignee of the entire interest may (*i.e.*, not signing in a representative capacity or as a patent practitioner of record), however, sign these same documents upon compliance with § 3.73(b), if the practitioner is authorized to act on behalf of the assignee.

A patent attorney or agent who has been given a power of attorney cannot change the power of attorney from the set of patent practitioners appointed by the applicant or assignee of the entire interest of the applicant to a Customer Number (or change from one Customer Number to another). To appoint a new power of attorney, the applicant or assignee of the entire interest of the applicant must be involved and must sign the power of attorney. Where a large number of patent applications of a single assignee are involved, the assignee may wish to consider giving the patent practitioners a power of attorney that is not specific to an application, similar to the General Power of Attorney used in Patent Cooperation Treaty (PCT) practice, and having one of the patent practitioners with general power of attorney take action by submitting a copy of the power of attorney and a statement in compliance with § 3.73(b). Form PTO/SB/80 is available for this purpose and is posted on the Office's Internet Web site at *www.uspto.gov*, under forms.

Section 1.36: Section 1.36 is revised to include new paragraphs (a) and (b) so that revocation of power of attorney and withdrawal as attorney or agent of record are addressed in separate paragraphs. In addition, "or authorization of agent" is deleted because the term "power of attorney" has been defined to include an authorization of an agent. The cross-reference to § 1.31 is changed to § 1.32(b).

Section 1.36(a) addresses revocation of a power of attorney. A registered patent attorney or patent agent is notified of any revocation with a "Notice Regarding Change in Power of Attorney." A power of attorney to the patent practitioners associated with a Customer Number that is filed subsequent to another power of attorney will be treated as a revocation of the previously granted power of attorney. The Office can only recognize one Customer Number at a time for power of attorney purposes. When the power of attorney is to the patent practitioners associated with a Customer Number, the power of attorney is considered to be revoked when the power of attorney to the practitioners associated with the Customer Number is revoked. The revoked power of attorney may be replaced with either a new power of attorney to a new Customer Number or a power of attorney to a new list of patent practitioners. A power of attorney is not considered revoked when the list of patent practitioners associated with a Customer Number is changed (as by filing a Request for Customer Number Data Change (PTO/SB/124)). When the power of attorney is revoked, a single notice is mailed to the correspondence address in effect before the power of attorney was revoked. An associate registered patent attorney or patent agent is not separately informed of a revocation. As a result, § 1.36(a) has been revised to no longer suggest that such an associate practitioner would be separately notified of the revocation of power of attorney.

When power of attorney is given to the registered patent practitioners associated with a Customer Number, for example with PTO/SB/81, the list of patent practitioners associated with the Customer Number is changed by changing the data associated with the Customer Number (using, for example PTO/SB/124 (2 pages 124A & 124B), Request for Customer Number Data Change). No notice is given to the patent practitioners who are added or removed from the Customer Number.

Section 1.36(b) provides that when the power of attorney for an application is given to the practitioners associated with a Customer Number, all of the patent practitioners associated with the Customer Number will not be permitted to withdraw if an application with the power of attorney has an Office action to which a reply is due and insufficient time remains in the time period for reply for applicant to prepare a reply. *See* MPEP § 402.06.

Section 1.53: Section 1.53 is amended by removing paragraph (d)(9) and redesignating paragraph (d)(10) as paragraph (d)(9). The Office has determined that Mail Stop CPA is not useful in the routing of correspondence within the Office.

Section 1.363: Section 1.363 is amended by adding paragraph (c), which states "A fee address must be an address associated with a Customer Number." At the time of issue fee payment, applicants may designate a fee address for maintenance fee purposes (hereafter, fee address) by submitting a "Fee Address" Indication form (PTO/SB/47) as an attachment to the Fee(s) Transmittal (PTOL–85B). If no Customer Number was previously acquired from the Office for the address being designated as the fee address, a Request for Customer Number form (PTO/SB/125) should also be attached to the Fee(s) Transmittal (PTOL–85B). If a fee address is established in an allowed application or patent, the Office will send all maintenance fee correspondence (such as maintenance fee reminder notices) to the fee address; and the Office will send all other correspondence, to the correspondence address of record. *See Customer Number Required in Order to Establish a Fee Address, 1261 Off. Gaz. Pat. Office 19* (August 6, 2002).

Section 3.1: Section 3.1 is revised to identify which trademark applications are covered by 37 CFR part 3, and to delete "or a transfer of its entire right, title and interest in a" so that the definition of an assignment includes a transfer of part of the right, title and interest in a registered mark or a mark for which an application to register has been filed. Section 3.1 is also revised to add "United States" before "Patent and Trademark Office" in the definition of "Office" to properly reflect the current name of the Office in the rule. See 35 U.S.C. 1(a).

Section 3.21: Section 3.21 is revised to change "its date of execution, name of each inventor, and title of the invention" to "the name of each inventor and the title of the invention." Section 3.21 is also revised to change "the provisional application by name of each inventor and title of the invention" to "the provisional application by the name of each inventor and the title of the invention" by adding "the" before "name" and "title."

The phrase "its date of execution" has been deleted from § 3.21 because the date of execution of a declaration is no longer required on a declaration (*see* MPEP § 602.05 and because the application could be executed on more than one date, and thus there may be no single date of execution). Accordingly, the date of execution of the application is not particularly useful in identification of the patent application and is deleted as unnecessary.

Section 3.24: Section 3.24 is revised to include two paragraphs, namely, paragraphs (a) and (b).

New paragraph (a) of § 3.24 addresses documents and cover sheets for electronic submissions (*e.g.*, patent assignment documents filed via the Electronic Filing System (EFS) or the Electronic Patent Assignment System (EPAS)), and requires all documents submitted electronically to be submitted as digitized images in Tagged Image File Format (TIFF). In addition, when printed to a paper size of 8½ by 11 inches (21.6 by 27.9 cm)("letter size") or DIN size A4 (21.0 by 29.7 cm), the document must be legible and a one-inch (2.5 cm) margin must be present on all sides.

New paragraph (b) of § 3.24 addresses documents and cover sheets for paper and facsimile submissions. Section § 3.24(b) provides that for paper submissions (*e.g.*, documents that are mailed to the Office), the original document may no longer be submitted. Section 3.24(b) provides that "[e]ither a copy of the original document or an extract of the original document" must be submitted for recordation. Section 3.24(b) also explains why original documents should not be submitted for recording: "The Office will not return recorded documents, so original documents must not be submitted for recording." The Office is moving to uniform processing of incoming papers, with incoming papers being scanned upon receipt, electronically routed within the Office, and an appropriate reply being transmitted to applicant or his representative. With this uniform procedure, the Office will not return or retain assignment documents submitted for recordation. As a result, the Office is not permitting the submission of originals of assignment documents, and instead is requiring that a copy or an extract of an original document be submitted. The term "an extract of the original document" is being added to reflect the current practice of submitting redacted copies of assignment documents, where part of an assignment document discusses matters other than assignment of interests related to a patent.

Section 3.24 is further revised to provide, in paragraph (b), that documents (copies) submitted for recording must be on sheets of paper having a size of 8½ by 11 inches (21.6 by 27.9 cm)("letter size") or DIN size A4 (21.0 by 29.7 cm). "Legal-size" (8½ by 14 inch or 21.64 by 33.1 cm) sheets of paper are no longer permissible. If the original assignment document is on "legal size" sheets of paper, the assignment document should be reduced to 8½ by 11-inch or DIN size A4 paper for submission to the Office (*e.g.*, by photocopying onto letter-size paper). Sheets of paper that are either 8½ by 11 inches (21.6 by 27.9 cm) or DIN size A4 (21.0 by 29.7 cm) are required for scanning purposes.

Section 3.25: Section 3.25 is amended to delete paragraph (a)(1) and renumber paragraphs (a)(2) through (4) as (a)(1) through (3), respectively. Paragraph (a)(1) is deleted to prohibit applicants from submitting the original assignment document (because applicants should retain the original of the assignment document). Paragraph (a)(1) of § 3.25, as renumbered, is further revised to insert "original" before "document" in order to clarify that only a copy of an original assignment document may be submitted for recording.

Section 3.25(c) is revised to add paragraph (1) to state that electronic submissions (*e.g.*, ETAS for trademark assignment documents) must be attached as a digitized image in Tagged Image File Format (TIFF), to move the existing requirements for paper submissions into paragraph (2), and to specify that the document (copy) submitted for recording must have a one-inch margin when printed on 8 ½ by 11 inch (21.6 by 27.9 cm) or DIN size A4 (21.0 cm by 29.7 cm) paper. Legal-size paper is no longer permitted. See the discussion of this change above for patents (§ 3.24).

Section 3.27: Section 3.27 is revised to change "to be recorded" to "submitted by mail for recordation" because documents and cover sheets submitted for recording may be faxed or electronically submitted to the Office and need not be mailed. Only documents submitted by mail need to be addressed as set forth in the rule. Section 3.27 is also revised to delete "or with a request under § 3.81". As explained with respect to § 3.81, when an applicant requests a patent to issue to an assignee, the assignment document should be separately submitted for recordation because inclusion of the assignment document with the request to issue the patent to the assignee slows down the recordation process.

Section 3.31: Section 3.31(a)(7) is revised to set forth the requirements for signature of patent and trademark cover sheets filed electronically. These requirements correspond to the requirements set forth in §§ 2.33(d) and 2.193(c)(1)(iii) of this chapter for electronically transmitted trademark filings.

Trademark assignments may be submitted electronically with the Electronic Trademark Assignment

System (ETAS), which is available on the Office's Internet Web site. See *http://etas.uspto.gov/*. Patent assignments may be electronically submitted using a similar tool, the Electronic Patent Assignment System (EPAS), and may also be submitted using EFS. When submitting a copy of an assignment using ETAS or EPAS, the cover sheet is completed and signed electronically. As with electronic submission of a trademark application, a signature may be applied to an assignment cover sheet by either: (1) Placing a symbol comprised of letters, numbers, and/or punctuation marks between forward slash marks in the signature block on the electronic submission (*e.g.* Jane P. Doe); or (2) signing the cover sheet using some other form of electronic signature specified by the Director. *See Trademark Manual of Examining Procedure* (TMEP) § 804.05, Signature of Electronically Transmitted Applications (May 2003).

Section 3.31(c)(1) is revised to simplify the requirements for the cover sheet to only require identification of whether the document to be recorded relates to a governmental interest.

Paragraph (f) is added to § 3.31, and provides that a trademark cover sheet should include the citizenship of the parties conveying and receiving the interest, and that if the party receiving the interest is a partnership or joint venture, the cover sheet should set forth the names, legal entities, and national citizenship (or the state or country of organization) of all general partners or active members. This information is required for purposes of examination of the application or registration file. Providing this information when the assignment is recorded may avoid a subsequent Office action by an examiner.

Section 3.34: Section 3.34(b) is revised to delete "the originally recorded document or" to thereby provide that it is "a copy of the document originally submitted for recording" that must be submitted. As explained above, the Office is revising the procedure for handling assignment documents and will no longer be returning the document that is submitted for recording.

Section 3.41: Section 3.41(b)(2) is revised to include electronic and facsimile submission as a means in which a statement of Government interest could be submitted for recordation without incurring a fee. Section 3.41(b)(2) is also revised to change the cross-reference to § 3.27 because § 3.27 was previously revised to delete § 3.27(b).

Section 3.81: Section 3.81(a) is revised to change "name(s)" to "name" and "assignee(s)" to "assignee" because under rules of statutory and regulatory construction, the singular includes the plural unless the context indicates otherwise. Furthermore, § 3.81(a) is amended to change "should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b)" to "must state that the document has been filed for recordation as set forth in § 3.11." When an assignment document is submitted for recording, the preferred submission is by facsimile to (703) 306–5995, or through an electronic filing system (*e.g.*, ETAS for trademark assignment documents or EPAS or EFS for patent assignment documents), and not by mail. Accordingly, the Office has revised the rules to enable patent applicants to state that the assignment documents have been filed for recordation, rather than including the assignment documents for recordation with the request.

Paragraphs (a) and (b) of § 3.81 are revised to delete the reference to a statement under § 3.73(b). If the application has been assigned, the assignment document should be submitted for recording as set forth in § 3.11 for the patent to issue showing the name of the assignee. Although during prosecution a statement under § 3.73(b) can be relied upon to establish that an assignee is of record, pursuant to § 3.73(b)(1)(i), "the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records as a condition to permitting the assignee to take action." By the time that a patent issues, any assignment should have been submitted for recording, and reliance upon § 3.73(b) should not be necessary. Furthermore, although during prosecution of an application the Office will have an opportunity to require recordation, at issuance, prosecution has come to a close and there is no other practical opportunity for the Office to require recordation before the patent is issued.

Section 3.81(b) is revised to read "[a]fter payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request that a patent be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter." This modifies the practice relating to issuance of a patent to an assignee by requiring that after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, where assignment information is submitted after payment of the issue fee, the patent document will not include the assignment information, but the assignment information will be included in a Certificate of Correction. Furthermore, the practice of allowing a patent to issue to an assignee when a § 3.73(b) statement has been filed, but an assignment has not been recorded is discontinued. *See* MPEP § 1481. Section 3.81(c)(1) is amended to change "assignee(s)" to "assignee" and "inventor(s)" to "inventor" because the singular includes the plural unless the context indicates otherwise. *See* 1 U.S.C. 1.

Section 5.1: Section 5.1(a) is revised to add Mail Stop L&R to the address so that the address reads as follows: All correspondence in connection with this part, including petitions, should be addressed to: Mail Stop L&R, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313–1450. National security classified applications and other related papers may also be hand-carried to Licensing and Review, Technology Center 3600, as provided in § 5.1(c).

Response to Comments: The Office published a notice proposing changes to the rules of practice regarding power of attorney and assignment practice. *See Clarification of Power of Attorney Practice, and Revisions to Assignment Rules*, 68 FR 38258 (June 27, 2003), 1272 *Off. Gaz. Pat. Office Notices* 181 (July 29, 2003). The Office received nine written comments (from one intellectual property organization, seven patent practitioners, and one business). Comments in support of a change are not discussed. The other comments and the Office's response to those comments follow:

Comment 1: An editorial change to § 1.12(b) was recommended to change the term "such records and related information" because the use of the term was confusing.

Response: The suggestion has been adopted and "such records and related information" has been changed to "assignment records, digests, and indexes'.

Comment 2: The definition of "power of attorney" in § 1.32(a) was recommended to be revised to include designating a patent attorney or patent

agent or an individual authorized to practice before the Office in patent cases. Another comment noted that the use of "agent" in § 1.32 was confusing, and recommended revision to avoid using the term "agent" to include an attorney.

Response: These suggestions have been adopted. The definition of power of attorney and the remainder of the rule have been revised accordingly. Instead of using "agent" the term "representative" or "patent practitioner" has been used. The term "an individual authorized to practice before the Office in patent cases" has not been included, however, because such a person is considered to have limited capacity to take action on behalf of a patent applicant (*see* § 10.9(a) and (b)), and is not recognized by the Office as an attorney or agent of record, and is not entered into the Office's computer systems as having a power of attorney.

Comment 3: The term "principal" in § 1.32(a)(2) was suggested as being too narrowly defined, and it was suggested that the term be defined broadly enough to include an appointment by fewer than all of the inventors.

Response: This suggestion has not been adopted, but the language has been clarified in regard to appointments by fewer than all the applicants or assignees. Where all the applicants, or the assignees of the entire interest of all the applicants, do not give power of attorney to the same patent practitioners, a petition under § 1.182 is currently required before the Office will permit the split power of attorney. *See* MPEP § 402.10. The term "all the inventors" is specifically not used in order to provide for the situation where an inventor is deceased or where a petition under § 1.47 has been granted (the applicant would then either be fewer than all of the inventors or the party with proprietary interest pursuant to § 1.47(b)). If the term "inventors" was used, then in any application in which a petition under § 1.47 was granted, a petition under § 1.183 would also always be required to permit the power of attorney to be signed by fewer than all of the inventors, or by an assignee who is the assignee of the entire interest of the applicant, but not the assignee of the entire interest in the application (due to the lack of an assignment from the inventor, or if deceased, the legal representative of the inventor, who did not sign the declaration). With a split power of attorney, both patent practitioners are required to sign any response to an Office action, and to participate in any interviews in the patent application, which tends to delay prosecution of the patent application. Accordingly, applicants need to show good and sufficient reasons why more than one practitioner is necessary to represent applicants for the patent, and such an explanation will need to be provided in a petition under § 1.183 to waive the requirements of § 1.32(b)(4) for the applicant or the assignee of the entire interest of the applicant to sign the power of attorney.

Comment 4: One comment noted that in § 1.32(a)(3) revocation should also be defined as including the situation where the power of attorney is revoked by a new principal, and suggested that the definition be modified to address this situation. Another comment suggested that a new power of attorney act as a revocation of all prior powers of attorney.

Response: The suggestion to expand the definition of revocation to include revocation by a new or different principal has been adopted. In the definition of revocation (§ 1.32(a)(3)), "by the principal" has been deleted after "previously given". As to the comment that a new power of attorney act as revocation of all prior powers of attorney, this suggestion has not been adopted because automatic revocation will only occur in certain situations. When an original power of attorney is filed giving power of attorney to attorneys A, B, and C, and the same principal subsequently files another power of attorney, giving power of attorney to D without revoking all prior powers of attorney, the subsequently filed power of attorney will be treated as a revocation of the original power of attorney. Similarly, if the applicant signed the original power of attorney, and an assignee of the entire interest of the applicant later takes action and files a new power of attorney, the original power of attorney is revoked and replaced by the power of attorney filed by the assignee. In addition, if a power of attorney is given to the practitioners associated with a Customer Number, and a (second) power of attorney is later received giving power of attorney to patent practitioners associated with a different Customer Number, the second power of attorney will be processed, with the first Customer Number being replaced with the second. The power of attorney to the practitioners associated with the first Customer Number is automatically revoked in this situation. In all of these situations, the most recently filed power of attorney will control.

Comment 5: Several comments opposed the requirement in § 1.32(b)(2) to use Customer Number practice if more than ten patent practitioners are to be named. They argued that the proposed rule would require an applicant to choose between naming only a law firm by using the law firm's Customer Number, or to name ten attorneys in order to name some patent practitioners in the law firm as well as others not in the law firm. The commentators encouraged the Office to consider amending the rule to allow for appointment of both practitioners and Customer Numbers, as well as more than one Customer Number. The comments argued that using different Customer Numbers for different combinations of in-house practitioners and outside firm practitioners is burdensome and risky. One comment contended that all patent practitioners associated with a Customer Number needed to be at the same address.

Response: Applicants and assignees currently, as a matter of practice, do have to choose between giving a power of attorney to a list of individual practitioners and a power of attorney to the practitioners associated with a Customer Number. This is because the Office's computer systems only allow either a list of individual practitioners or a Customer Number to be entered, but not both, nor more than one Customer Number. The proposal to allow for entry of multiple Customer Numbers would likely result in separate registration numbers being entered. The programming required to allow for more than one Customer Number would be very costly, and updating the list of patent practitioners would be burdensome on the Office, so it has not been adopted.

A Customer Number does not need to have only patent practitioners in a single law firm associated with it. Instead, a Customer Number can be used to list all of the patent practitioners associated with a given client and who are working together to represent the client. As a result, requiring the use of a Customer Number if more than ten attorneys are to be appointed power of attorney would not require an applicant to make the choice suggested by the comment. Furthermore, to allow any of the patent practitioners access to private PAIR, Customer Number practice must be used.

The comments have not explained why appointment of more than ten patent practitioners, particularly hundreds of patent practitioners, is necessary. When a long list of patent practitioners is submitted to the Office, this list must be constantly updated with a separate submission for each application. When a patent practitioner leaves a law firm, he must file a withdrawal for each application in which he has a power of attorney. There

could be thousands of applications in which he was given a power of attorney, even though he never personally signed a single communication in any of them. If the proper action is not taken in the application, he or she can be held responsible for the failure to take the appropriate action because he did not timely withdraw. Given the Office's extremely liberal policy of accepting correspondence from a patent practitioner who is acting in a representative capacity pursuant to § 1.34, whether someone is of record is only relevant for a patent practitioner signing a change of correspondence address, an express abandonment without filing a continuing application, or a disclaimer. The work required for the Office to constantly update the lists of patent practitioners of record in receipt, matching and processing of the relevant paper has not been shown to be justified in exchange for the value actually given to applicants.

All patent practitioners associated with a Customer Number do not need to be at the same address. A Customer Number can be used like a client number, with all the patent practitioners who represent the client being associated with a single Customer Number.

Comment 6: Another comment asked if more than one Customer Number could be used to designate the list of patent practitioners of record so that applicants could give power of attorney to Customer Number A (all in-house counsel), and Customer Number B (several patent practitioners who are not in-house counsel). Alternatively, it was suggested that § 1.32(b)(2) be revised to permit the naming of more than one Customer Number.

Response: The suggestion has not been adopted. As stated in response to comment 5, in order to implement a change to permit use of more than one Customer Number to identify either the list of patent practitioners to be made of record or the correspondence address, reprogramming of multiple Office computer systems would be required, which is an automation project that the Office does not have resources to devote to at this time. Furthermore, the Office could not reprogram the software to allow multiple Customer Numbers to be used for the list of patent practitioners without also allowing multiple Customer Numbers being used for the correspondence address because access to private PAIR is a function of the correspondence address being associated with a single Customer Number. Thus, if the Office were to allow more than one Customer Number to be given for correspondence address purposes so that practitioners associated with each of the Customer Numbers can have access to private PAIR, then applicants would need to elect a single Customer Number for mailing purposes, and the Office would have to reprogram its system so as to be able to capture only the elected Customer Number for mailing purposes. The more Customer Numbers that the applicant has associated with a given application, the more likely that the applicant will need to change one or more of the Customer Numbers associated with the application. If only a single Customer Number is used (the Office permits up to three different Customer Numbers to be used, one for the power of attorney, one for the correspondence address and one for the fee address, but the same Customer Number can be used), then only a single Request for Customer Number Data Change can effectuate any changes necessary to the list of patent practitioners, or the address associated with a Customer Number. Given that a law firm, or a sole practitioner, can have multiple Customer Numbers without the Office being required to make any programming changes, it is more appropriate for the patent practitioners to use multiple Customer Numbers, with each Customer Number for a set of practitioners to be associated with a set of patent applications, rather than the Office to incur the cost of permitting multiple Customer Numbers to be used for the correspondence address (private PAIR access), or for the list of patent practitioners of record in an application.

Comment 7: Most of the comments opposed the proposal of denying entry of a power of attorney that was not in compliance with the proposed rules, and noted that there would be significant costs to applicants as a result of this policy. For example, where the power of attorney was given by the applicant in a combined declaration and power of attorney, many comments argued that a new declaration would be required to provide a proper power of attorney, and that a new declaration would be difficult to obtain because the applicant may no longer be employed by the company. Several comments emphasized the burden to applicants in changing their forms to comply with the limit of ten patent practitioners of record and requested a several-year delay in the effective date.

Response: After careful consideration, the Office has decided to permit applicants to supply a separate paper listing the patent practitioners who shall be made of record. Where a power of attorney is included as part of a declaration pursuant to § 1.63, and the power of attorney does not comply with § 1.32(b), the declaration would not be considered defective so long as the requirements of § 1.63 (or § 1.64) are met. If a separate paper indicating which ten registered patent attorneys or registered patent agents named in the power of attorney are to be recognized by the Office as being of record in the application or patent to which the power of attorney is directed is provided pursuant to § 1.32(c)(3), then the registered patent practitioners listed on the separate paper will be made of record. On the other hand, if the power of attorney does not comply with § 1.32(b) and the separate paper of § 1.32(c)(3) is not provided, then no patent practitioners will be made of record.

The Office does not encourage combined declarations and power of attorney. If such a combined format is used, however, it is recommended that the following language be inserted into the oath or declaration so that the patent practitioner will be able to take instructions from the actual client:

> The undersigned hereby authorizes the U.S. attorney or agent named herein to accept and follow instructions from _____ as to any action to be taken in the United States Patent and Trademark Office regarding this application without direct communication between the U.S. attorney or agent and the undersigned. In the event of a change in the persons from whom instructions may be taken, the U.S. attorney or agent named herein will be so notified by the undersigned.

See Responsibilities of Practitioners Representing Clients in Proceedings Before the Patent and Trademark Office, 1091 *Off. Gaz. Patent Office* 26 (May 25, 1988). If the client is the company that employed the inventor, then if the company is the assignee of the entire interest of the applicant, the assignee should sign the power of attorney in the patent application, not the inventor who may no longer be employed by the assignee (company). Because an inventor who is no longer being employed by a company is unlikely to be represented by a patent practitioner who has filed a patent application on behalf of the assignee, the fact that it would be difficult to obtain the signature of the inventor on a new power of attorney is not persuasive, and a petition under § 1.183 to waive this provision of the rules is unlikely to be granted for such a reason. An inventor may be available to sign a power of attorney, but may have a divergent interest from the company. Where the company (assignee) has not chosen to intervene in the application, and the power of attorney is given by the inventor (applicant), the inventor may later revoke the original power of

attorney to the patent practitioners chosen by the assignee and appoint his/her own patent attorney and change the correspondence address in the application (or patent). Such an exercise of authority by an inventor (applicant) is appropriate so long as the assignee of the entire interest of the applicant has not appointed a power of attorney, but adds unnecessary complexity to the prosecution of the application.

Where a power of attorney lists more than ten patent practitioners and the Office enters those patent practitioners listed on a separate paper provided pursuant to § 1.32(c)(3), a patent practitioner who is not recognized as the patent attorney or patent agent of record and, as a result is not entered into the Office's computer systems, is not required to request to be withdrawn, if the practitioner ceases to represent the applicant or assignee of the applicant. If such a patent practitioner files a request to withdraw, the Office will enter the paper in the patent application file, but will not process the paper, as the practitioner cannot be withdrawn because the practitioner was not made of record and was not entered into the Office's computer records.

Comment 8: One comment, while questioning the wisdom of having any limit on the number of patent practitioners who may be given a power of attorney, suggested a limit of 25, and for the Office to enter in the first 25 when more than 25 are listed in a power of attorney. Alternatively, it was suggested in two comments that a fee be required for the entry of more than 10 patent practitioners. Another comment questioned the limit contending that where an application is electronically filed, the Office does not have to enter in any lists of registration numbers, because if PrintEFS were updated, the application data sheet could be scanned and optical character recognition (OCR) be used to upload the data.

Response: A smaller number would be preferred by some, a larger by others, but the Office has decided that ten best balances the need of applicants to appoint several practitioners without using Customer Number practice and the need of the Office to avoid unnecessary work. The suggestion to adopt a fee to accept more than a set number of patent practitioners of record is noted and may be pursued in a future rule making, but the extra burden associated with entering additional names was a significant factor for not adopting the suggestions at this time.

Comment 9: Many comments disapproved of the deletion of associate power of attorney practice. The comments argued that when a new attorney takes over prosecution of a patent application from a former counsel, an associate power of attorney is useful to bridge the gap until a new power of attorney can be executed. In addition, an associate power of attorney is considered useful where a patent practitioner of record who is not in the Washington, DC, area appoints another patent practitioner within the area to assist in the prosecution for the purpose of some procedural or petition matter, but does not wish to have the practitioner made of record in all patent applications (as would happen if they used Customer Number practice, and added the practitioner to the list of practitioners associated with the Customer Number). Another comment argued that the associate power of attorney practice was desirable because of the delays in obtaining a new power of attorney, and that such delays would lead to the original attorney of record receiving correspondence for too long. Another comment suggested that the rules be amended to provide that an associate attorney's authority is not dependent upon the continued representation by the appointing principal attorney.

Response: Associate power of attorney practice has been eliminated because the practice is unnecessary in view of Customer Number practice. Customer Number practice, like an associate power of attorney, allows the list of patent practitioners to be changed easily to add an attorney without execution of a new power of attorney from the client, and therefore it is not necessary to be able to give an associate power of attorney if the power of attorney is to the practitioners associated with a Customer Number. Instead of using an associate power of attorney, if the power of attorney is to the patent practitioners associated with a Customer Number, a Request for Customer Number Data Change can be filed to add a practitioner that would have been given an associate power. In order to most effectively represent a patent applicant, a patent practitioner needs access to the private Patent Application Information Retrieval (private PAIR) system. Private PAIR enables the practitioner to obtain direct access the Office's electronic records for a patent application, including in many instances images of the papers in the patent application. In order to obtain access to these records, however, a Customer Number must be associated with the correspondence address of the application, and the registered practitioner must be associated with the Customer Number. The availability of the associate power of attorney practice to add new patent practitioners would encourage practitioners to give an associate power of attorney rather than having a new power of attorney to the practitioners associated with a Customer Number signed by the applicant or assignee of the entire interest of the applicant, even though the new power of attorney to the practitioners associated with a Customer Number would enhance their ability to represent the applicant or assignee of the entire interest of the applicant because of the access to private PAIR gained by Customer Number practice.

Using a Customer Number effectively as a client number, so that both in-house patent counsel and other patent practitioners are associated with the Customer Number, may only be appropriate for clients who file many patent applications. If the set of practitioners who are representing a client on a matter is so unique that it is not efficient to establish a Customer Number specifically for this set of practitioners, then the power of attorney would be to a list of patent practitioners and the correspondence address could be given as a Customer Number so that only those patent practitioners associated with the Customer Number for the correspondence address (a subset of those with power of attorney) would have access to private PAIR.

As to the suggestion that an associate power of attorney is necessary for the attorney to conduct an interview, *e.g.*, in the situation where a non-Washington, DC, firm appoints a Washington, DC, area patent practitioner to conduct an interview in a patent application, it is noted that the Washington, DC, patent practitioner does not need to be of record or have an associate power of attorney if the Washington, DC, practitioner has in their possession a copy of the application file. Even if the Washington, DC, practitioner does not have a copy of the application file, the practitioner may conduct an interview with "proper authority from the applicant or attorney or agent of record in the form of a paper on file in the application." *See* MPEP § 713.05. Should an examiner object to a practitioner who is not of record conducting the interview, the practitioner is encouraged to bring a letter signed by an attorney of record, authorizing the practitioner to conduct the interview. For example, a sample of an "Authorization to Act in a Representative Capacity" is posted on the Office's Internet Web site under "Forms" at *http://www.uspto.gov/web/forms/sb0084.pdf*. A faxed copy of the letter would be acceptable.

Similarly, a patent practitioner does not need to be of record to file a reply to an Office action. *See* § 1.34, and MPEP §§ 405 and 714.01(c). Although the practitioner who is acting in a representative capacity pursuant to § 1.34 cannot sign a change of correspondence address (§ 1.33(a)(2)), a disclaimer (§ 1.321), or a request to expressly abandon a patent application (§ 1.138) (unless also filing a continuing application), he can take all other actions necessary to continue the prosecution of the application. An associate power of attorney does not put a patent practitioner in a significantly better position to represent an applicant than they could exercise by acting in a representative capacity pursuant to § 1.34. An associate power of attorney does, however, increase the workload of the Office as the Office practice was to enter the associate patent attorneys or patent agents into the Office computer records, indicate that the practitioner is an associate attorney, and then change the listing if the primary attorney ceased to have a power of attorney, or as new associates were appointed. In order to reduce the paperwork that the Office needs to process for a patent application, the Office will no longer enter associate powers of attorney into the electronic records for patent applications so as to make the associate attorney of record.

Patent practitioners with an associate power of attorney cannot directly access private PAIR, and as a result, are less able to represent a client than one with direct access to private PAIR. Private PAIR allows access to the Office's computer records for the patent application, for example to the Patent Application Locating and Monitoring (PALM) system contents, to the patent term adjustment calculations, and, if the application is maintained in the Image File Wrapper (IFW) system, to the image filed of the documents in the file history. One particularly helpful feature of private PAIR is the "View Outgoing Correspondence," a feature that allows patent practitioners to obtain a list of applications with recently mailed correspondence, and, if the application is maintained in the IFW system, to view the documents. To have access to private PAIR for a patent application, the patent practitioner must be associated with a Customer Number that is associated with the correspondence address for the application. In addition, the patent practitioner's computer system (or his or her paralegal's computer system) must be loaded with the appropriate software. Public PAIR also allows access to much of this same information, but is only available for applications that have either published or issued as patents. If the patent practitioner merely has an associate power of attorney, the practitioner is not associated with the Customer Number, and is not able to access Private PAIR. Without access to private PAIR, a patent practitioner may not have access to the complete patent application file and cannot fully represent the client. For example, patent term adjustment calculations are available in private PAIR, but are not mailed to applicants.

Currently, the Office records both primary attorneys of record (who may not be associated with a Customer Number) as well as associate powers of attorney in the Office's PreExam computer system, so as to have a readily available list of patent practitioners of record for a particular application. Since an associate power of attorney terminates with the termination of the power of attorney to the patent practitioner who gave the associate power of attorney, associate powers of attorney require record keeping in addition to the entry of the associate powers of attorney into attorney of record fields, because the Office must take down the associate power of attorney once the primary attorney no longer has power of attorney. The suggestion to allow an associate power of attorney to remain valid even after the power of attorney to the primary attorney has been revoked, or where the primary attorney has withdrawn, has not been adopted. If an applicant or assignee desires the associate to be an attorney of record, the applicant or assignee should sign the required power of attorney.

In the situation where a practitioner is being brought in to assist with some overflow work, no appointment of an associate power of attorney is necessary before the Office is willing to accept the paper from the practitioner. Part 1 of the rules of practice do not address engagement letters between one patent practitioner and another. As a result, if the attorney of record desires the assistance of another patent practitioner, the rules of practice do not prohibit the patent practitioner from obtaining an "Associate Power of Attorney" or "Authorization of Agent" from the patent practitioner of record for their records. Furthermore, such a document would be considered a showing under § 1.34 that a person was acting in a representative capacity pursuant to § 1.34 on behalf of the applicant.

As to the delay inherent in obtaining a new power of attorney, although the original attorney will no longer be permitted to give an associate power of attorney, the original attorney can withdraw, or simply change the correspondence address to the new attorney's address.

Comment 10: One comment explained that the list of practitioners associated with a Customer Number usually only includes the partners in a firm, whereas an associate power of attorney was given to associate attorneys. The comment argued that eliminating associate power of attorney practice would hamper development of associate attorneys.

Response: The Office's computer system does not allow both a power of attorney to the practitioners associated with a Customer Number and either a list of patent practitioners (without use of a Customer Number) or another list of practitioners associated with a different Customer Number. Accordingly, the Office cannot enter a power of attorney to a Customer Number and an associate power of attorney. Furthermore, the relationship between being of record in a patent application (as would have occurred where the Office was able to enter an associate power of attorney), and being able to develop as a patent practitioner is not understood. A patent practitioner who is an associate at a firm could act in a representative capacity pursuant to § 1.34, under the direction of a practitioner of record. The inability to sign a change of correspondence address, has little to do with professional development.

Comment 11: Many comments suggested that a benefit of associate power of attorney practice is to permit someone who is not of record to conduct an interview, and that many examiners deny such an interview because the attorney is not of record, even though the Manual of Patent Examining Procedure states that such an interview is acceptable.

Response: Applicants desiring to have an attorney who is not of record and are concerned that the examiner may question the authority of the practitioner to conduct the interview should delegate to the practitioner the authority to conduct the interview by a separate letter, such as an "Authorization to Act in a Representative Capacity." This sample template is available on the Office's Internet Web site in the listing of forms after PTO/SB/83. A faxed copy of such a letter would be acceptable, and the practitioner could bring a copy of the letter to the interview in the event that the examiner has a question about the authority of the practitioner.

Comment 12: One comment noted that having applicant execute a new

power of attorney would not be unduly burdensome, but requested clarification of the effect of elimination of associate power of attorney practice upon previously filed associate powers of attorney.

Response: Previously filed associate powers of attorney remain valid, and will continue to be effective.

Comment 13: One comment noted a discomfort with the use of Customer Number practice in that if the Office transposes digits when entering the Customer Number, the correspondence goes to an entirely incorrect address.

Response: The Office is sensitive to the need to carefully check for the correct entry of Customer Numbers and is taking steps to ensure that the correct Customer Number is entered. For example, when the Office keys in a Customer Number, the address associated with the Customer Number is retrieved. This address is compared to the name of the firm or company that filed the patent application, and any street address included with the application papers, to check the accuracy of the Customer Number that is entered. Applicants can assist the Office in improving the accuracy of entry of the Customer Number by ensuring that the Customer Number is clear and legible (*e.g.*, at least 12- or 14-point font and not fuzzy).

Comment 14: One comment stated that the proposal to require the exact name as registered with his or her signature was unreasonable, but noted that it was not clear that the exact name as registered was in fact being proposed to be required.

Response: The Office did intend to propose to require the exact name as registered, as this change was also included in the rule changes proposed in a recent notice of proposed rule making. *See Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan*, 68 FR 53816 (Sep. 12, 2003), 1275 *Off. Gaz. Pat. Office Notices* (Oct. 7, 2003) (proposed rule). On reflection, the Office agrees that it is not necessary to obtain the exact name as registered to confirm the identity of the person signing the correspondence, but will instead require the typed name of the person signing the correspondence. Signatures are not always legible, and digits on registration numbers are sometimes transposed or inadvertently omitted. Accordingly, having a typed name is considered necessary.

Comment 15: As to § 1.36, one comment stated that the revocation of the power of attorney should be available to fewer than all of the inventors, or fewer than the assignee of the entire interest of the applicant.

Response: The suggestion has not been adopted. The current practice is to permit revocation by fewer than all of the applicants only if a petition under § 1.182 is filed, explaining why a split power of attorney is necessary. *See* MPEP § 402.10. Having more than one attorney or an attorney and an applicant required to sign all correspondence in an application often leads to the application becoming abandoned due to the difficulty in obtaining the necessary signatures. As a result, the rules have not been amended to provide for fewer than all of the applicants to be able to revoke the power of attorney without a showing of sufficient cause.

Comment 16: One comment suggested that .jpg files be added to the list of formats accepted for electronic submission of assignment documents pursuant to § 3.24 and § 3.25, arguing that this format is accepted in Trademarks.

Response: At this time it is not feasible for the Office to expand the formats that will be accepted for electronic submission of assignment documents. The format .jpg is acceptable for Trademark documents filed through Trademark Electronic Application System (TEAS), but not assignments of Trademarks filed through ETAS.

Comment 17: Two comments noted the change in practice proposed in § 3.34 would be more acceptable to applicants if the Notice of Recordation were modified to also include an Attorney Docket Number, as well as the title of the invention according to the application on filing. Alternatively, one comment suggested use of the Express Mail number as an identifier on the Notice of Recordation.

Response: The proposal to use the Express Mail number as an identifier is not adopted. The Office can process faxed or electronically filed assignment documents much quicker than those received by mail, and allowing use of an Express Mail number would promote a practice of mailing at a time when the Office is seeking to discourage mailing and encourage electronic submissions. The Office has, however, adopted the suggestion to include the title of the invention, but notes that the title that will be printed on the Notice of Recordation is the title reflected in the Office's computer records, and will not be rekeyed from the assignment. As to the attorney docket number, the suggestion has also been adopted, if the assignment is for a single property. The notice of recordation cannot reflect docket numbers if the assignment is for more than one patent or trademark.

Comment 18: Another comment stated that sometimes the wrong patent assignment document is attached to the Notice of Recordation, and having a copy of the document has been useful in the past to enable the mix-up to be addressed.

Response: The Office has made patent and trademark assignment records available over the Internet. Although the copy of a patent assignment document cannot be displayed using *http://assignments.uspto.gov/assignments/q?db=pat*, the assignment records on the Internet provide a mechanism to check if the patent assignment was recorded correctly.

Administrative Procedure Act: This final rule changes the rules of practice to Office procedures involving power of attorney practice and recording of assignment documents. The changes addressed in this final rule are limited to the format for and the manner of submitting, establishing and changing the power of attorney, for submitting documents to be recorded in the assignment records, and the availability of assignment records to the public. Therefore, these changes involve rules of agency practice and procedure under 5 U.S.C. 553(b)(A). *See Bachow Communications Inc.* v. *FCC*, 237 F.3d 683, 690 (DC Cir. 2001). Therefore, prior notice and opportunity for public comment were not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). Nevertheless, the Office did provide an opportunity for public comment on the changes in the notice of proposed rule making because the Office desires the benefit of public comment on the proposed changes.

Regulatory Flexibility Act: As prior notice and an opportunity for public comment were not required pursuant to 5 U.S.C. 553 (or any other law), a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. See 5 U.S.C. 603. The changes in this final rule impose no additional fees on patent applicants.

Executive Order 13132: This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This final rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this final rule have been reviewed and previously approved by OMB under OMB control numbers 0651–0027, 0651–0032, 0651–0034, and 0651–0035. The changes in this final rule do not affect the information requirements associated with these information collections. Therefore, the Office is not submitting these information collection packages to OMB for review and approval.

The title, description and respondent description of each of the information collections are shown below with an estimate of the annual reporting burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The principal impacts of the changes in this proposed rule are to: (1) Provide for power of attorney to a Customer Number and to limit the number of attorneys who may be given a power of attorney without using a Customer Number; (2) eliminate associate power of attorney practice; (3) require attorneys acting in a representative capacity to specify their name and registration number; (4) allow access to assignment records except those relating to any pending or abandoned patent application which is preserved in confidence under § 1.14; (5) provide that assignment documents submitted for recording must be on certain sizes of paper; (6) specifically state that the assignment documents that are submitted for recording will not be returned; (7) for assignments that are submitted electronically, provide for an electronic signature; (8) require the citizenship of the parties conveying and receiving the interest on a trademark assignment cover sheet; (9) provide that a request to issue a patent to an assignee filed after issue fee payment must be accompanied by a request for a certificate of correction; and (10) change the address that would be used for mailing certain patent applications.

OMB Number: 0651–0027.

Title: Recording Assignments.

Form Numbers: PTO–1594 and PTO–1595.

Type of Review: Approved through June of 2005.

Affected Public: Individuals or households, business or other for-profit institutions, not-for-profit institutions, farms, Federal Government, and State, local, or tribal governments.

Estimated Number of Respondents: 240,345.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 120,173 hours.

Needs and Uses: The Office records over 200,000 assignments or documents related to ownership of patent and trademark cases each year. The Office requires a cover sheet to expedite the processing of these documents and to ensure that they are properly recorded.

OMB Number: 0651–0032.

Title: Initial Patent Application.

Form Number: PTO/SB/01–07, PTO/SB/13PCT, PTO/SB/16–19, PTO/SB/29 and 29A, PTO/SB/101–110.

Type of Review: Approved through July of 2006.

Affected Public: Individuals or households, business or other for-profit institutions, not-for-profit institutions, farms, Federal Government, and State, local, or tribal governments.

Estimated Number of Respondents: 454,287.

Estimated Time Per Response: 22 minutes to 10 hours and 45 minutes.

Estimated Total Annual Burden Hours: 4,171,568 hours.

Needs and Uses: The purpose of this information collection is to permit the Office to determine whether an application meets the criteria set forth in the patent statute and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, Provisional Application Cover Sheet, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the USPTO in processing and examination of the application.

OMB Number: 0651–0034.

Title: Secrecy and License to Export.

Form Numbers: None.

Type of Review: Approved through April of 2004.

Affected Public: Individuals or households, business or other for-profit institutions, not-for-profit institutions, farms, Federal Government, and State, local, or tribal governments.

Number of Respondents: 1,669.

Estimated Time Per Response: Between 30 minutes and 4 hours.

Estimated Total Annual Burden Hours: 1,310 hours.

Needs and Uses: When disclosure of an invention may be detrimental to national security, the Director of the USPTO must issue a secrecy order and withhold the publication of the application or grant of a patent for such period as the national interest requires. The USPTO is also required to grant foreign filing licenses in certain circumstances to applicants filing patent applications in foreign countries. This collection is used by the public to petition the USPTO to allow disclosure, modification, or rescission of a secrecy order, or to obtain a general or group permit. Applicants may also petition the USPTO for a foreign filing license, a retroactive license, or to change the scope of a license.

OMB Number: 0651–0035.

Title: Representative and Address Provisions.

Form Numbers: PTO/SB/80/81/82/83/122/123/124A/124B/125A/125B.

Type of Review: Approved through November of 2005.

Affected Public: Individuals or households, business or other for-profit, not for-profit institutions and Federal Government.

Estimated Number of Respondents: 355,005.

Estimated Time Per Response: 3 minutes (0.05 hours) to 1 hour 30 minutes (1.5 hours).

Estimated Total Annual Burden Hours: 30,088 hours.

Needs and Uses: Under 35 U.S.C. 2 and 37 CFR 1.31–1.36 and 1.363, this information is used to submit a request to grant or revoke power of attorney in an application or patent, to withdraw as patent attorney or patent agent of record, or to designate or change the correspondence address for one or more applications or patents, and to request or change information associated with a customer number.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, or to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503, (Attn: USPTO Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

37 CFR Part 3

Administrative practice and procedure, Inventions and patents, Reporting and record keeping requirements.

37 CFR Part 5

Classified information, foreign relations, inventions and patents.

■ For the reasons set forth in the preamble, 37 CFR parts 1, 3 and 5 are amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

■ 2. Amend § 1.1 by revising paragraph (a)(4)(i) to read as follows, and by removing and reserving paragraph (f).

§ 1.1 Addresses for non-trademark correspondence with the United States Patent and Trademark Office.

(a) * * *

(4) *Office of Public Records correspondence.* (i) Assignments. All patent-related documents submitted by mail to be recorded by Assignment Services Division, except for documents filed together with a new application, should be addressed to: Mail Stop Assignment Recordation Services, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450. *See* § 3.27.

* * * * *

(f) [Reserved]

■ 3. Revise § 1.12(b) to read as follows:

§ 1.12 Assignment records open to public inspection.

* * * * *

(b) Assignment records, digests, and indexes relating to any pending or abandoned patent application, which is open to the public pursuant to § 1.11 or for which copies or access may be supplied pursuant to § 1.14, are available to the public. Copies of any assignment records, digests, and indexes that are not available to the public shall be obtainable only upon written authority of the applicant or applicant's assignee or patent attorney or patent agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided in this part.

* * * * *

■ 4. Revise § 1.31 to read as follows:

§ 1.31 Applicants may be represented by a registered patent attorney or patent agent.

An applicant for patent may file and prosecute his or her own case, or he or she may give a power of attorney so as to be represented by a registered patent attorney or registered patent agent. *See* § 10.6 of this subchapter. The United States Patent and Trademark Office cannot aid in the selection of a registered patent attorney or patent agent.

■ 5. Add new § 1.32 to read as follows:

§ 1.32 Power of attorney.

(a) Definitions.

(1) *Power of attorney* means a written document by which a principal designates a registered patent attorney or a registered patent agent to act on his or her behalf.

(2) *Principal* means either an applicant for patent (§ 1.41(b)) or an assignee of entire interest of the applicant. The principal executes a power of attorney designating one or more registered patent attorneys or registered patent agents to act on his or her behalf.

(3) *Revocation* means the cancellation by the principal of the authority previously given to a registered patent attorney or registered patent agent to act on his or her behalf.

(4) *Customer Number* means a number that may be used to:

(i) Designate the correspondence address of a patent application or patent such that the correspondence address for the patent application or patent would be the address associated with the Customer Number;

(ii) Designate the fee address (§ 1.363) of a patent such that the fee address for the patent would be the address associated with the Customer Number; and

(iii) Submit a list of practitioners such that those registered patent practitioners associated with the Customer Number would have power of attorney.

(b) A power of attorney must:

(1) Be in writing;

(2) Name one or more representatives in compliance with (c) of this section;

(3) Give the representative power to act on behalf of the principal; and

(4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant.

(c) A power of attorney may only name as representative:

(1) One or more joint inventors (§ 1.45);

(2) Those registered patent practitioners associated with a Customer Number;

(3) Ten or fewer registered patent attorneys or registered patent agents (*see* § 10.6 of this subchapter) (patent practitioners). Except as provided in paragraph (c)(1) or (c)(2) of this section, the Office will not recognize more than ten patent practitioners as being of record in an application or patent. If a power of attorney names more than ten patent practitioners, such power of attorney must be accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office as being of record in application or patent to which the power of attorney is directed.

■ 6. Amend § 1.33 by revising paragraphs (a) introductory text, (b) introductory text, (b)(1), (b)(2) and (c) to read as follows:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, *see* §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:

* * * * *

(b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

* * * * *

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the patent attorney or patent agent of record (*see* § 1.32(b)) in the patent file at the address listed on the register of patent attorneys and patent agents maintained pursuant to § 10.5 and § 10.11 or, if no patent attorney or patent agent is of record, to the patent owner or owners at the address or addresses of record. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by a patent attorney or patent agent of record in the patent file, or by a registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's patent attorney or patent agent, or with more than one patent attorney or patent agent, will not be undertaken. If more than one patent attorney or patent agent is of record and a correspondence address has not been specified, correspondence will be held with the last patent attorney or patent agent made of record.

* * * * *

■ 7. Revise § 1.34 to read as follows:

§ 1.34 Acting in a representative capacity.

When a registered patent attorney or patent agent acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party in whose behalf he or she acts. In filing such a paper, the registered patent attorney or patent agent must specify his or her registration number and name with his or her signature. Further proof of authority to act in a representative capacity may be required.

■ 8. Revise § 1.36 to read as follows:

§ 1.36 Revocation of power of attorney; withdrawal of patent attorney or patent agent.

(a) A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceedings of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant. A power of attorney to the patent practitioners associated with a Customer Number will be treated as a request to revoke any powers of attorney previously given. Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth in § 1.17(h). A registered patent attorney or patent agent will be notified of the revocation of the power of attorney. Where power of attorney is given to the patent practitioners associated with a Customer Number (§ 1.32(c)(2)), the practitioners so appointed will also be notified of the revocation of the power of attorney when the power of attorney to all of the practitioners associated with the Customer Number is revoked. The notice of revocation will be mailed to the correspondence address for the application (§ 1.33) in effect before the revocation. An assignment will not of itself operate as a revocation of a power previously given, but the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in § 1.32(b).

(b) A registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director. The applicant or patent owner will be notified of the withdrawal of the registered patent attorney or patent agent. Where power of attorney is given to the patent practitioners associated with a Customer Number, a request to delete all of the patent practitioners associated with the Customer Number may not be granted if an applicant has given power of attorney to the patent practitioners associated with the Customer Number in an application that has an Office action to which a reply is due, but insufficient time remains for the applicant to file a reply. *See* § 1.613(d) for withdrawal in an interference.

§ 1.53 [Amended]

■ 9. Amend § 1.53 by removing paragraph (d)(9) and redesignating paragraph (d)(10) as paragraph (d)(9).

■ 10. Revise § 1.363 by adding paragraph (c) as follows:

§ 1.363 Fee address for maintenance fee purposes.

* * * * *

(c) A fee address must be an address associated with a Customer Number.

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

■ 11. The authority citation for 37 CFR part 3 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 2(b)(2).

■ 12. Revise § 3.1 to read as follows:

§ 3.1 Definitions.

For purposes of this part, the following definitions shall apply:

Application means a national application for patent, an international patent application that designates the United States of America, or an application to register a trademark under section 1 or 44 of the Trademark Act, 15 U.S.C. 1051 or 15 U.S.C. 1126, unless otherwise indicated.

Assignment means a transfer by a party of all or part of its right, title and interest in a patent, patent application, registered mark or a mark for which an application to register has been filed.

Document means a document which a party requests to be recorded in the Office pursuant to § 3.11 and which affects some interest in an application, patent, or registration.

Office means the United States Patent and Trademark Office.

Recorded document means a document which has been recorded in the Office pursuant to § 3.11.

Registration means a trademark registration issued by the Office.

■ 13. Revise § 3.21 to read as follows:

§ 3.21 Identification of patents and patent applications.

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, *e.g.*, 07/123,456). An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number (*e.g.*, PCT/US90/01234). If an assignment of a patent application filed under § 1.53(b) is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the

patent application by the name of each inventor and the title of the invention so that there can be no mistake as to the patent application intended. If an assignment of a provisional application under § 1.53(c) is executed before the provisional application is filed, it must identify the provisional application by the name of each inventor and the title of the invention so that there can be no mistake as to the provisional application intended.

■ 14. Revise § 3.24 to read as follows:

§ 3.24 Requirements for documents and cover sheets relating to patents and patent applications.

(a) *For electronic submissions:* Either a copy of the original document or an extract of the original document may be submitted for recording. All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), the document must be legible and a 2.5 cm (one-inch) margin must be present on all sides.

(b) *For paper or facsimile submissions:* Either a copy of the original document or an extract of the original document must be submitted for recording. Only one side of each page may be used. The paper size must be either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), and in either case, a 2.5 cm (one-inch) margin must be present on all sides. For paper submissions, the paper used should be flexible, strong white, non-shiny, and durable. The Office will not return recorded documents, so original documents must not be submitted for recording.

■ 15. Revise § 3.25 to read as follows:

§ 3.25 Recording requirements for trademark applications and registrations.

(a) *Documents affecting title.* To record documents affecting title to a trademark application or registration, a legible cover sheet (*see* § 3.31) and one of the following must be submitted:

(1) A copy of the original document;

(2) A copy of an extract from the document evidencing the effect on title; or

(3) A statement signed by both the party conveying the interest and the party receiving the interest explaining how the conveyance affects title.

(b) *Name changes.* Only a legible cover sheet is required (*See* § 3.31).

(c) *All documents.* (1) *For electronic submissions:* All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), a 2.5 cm (one-inch) margin must be present on all sides.

(2) *For paper or facsimile submissions:* All documents should be submitted on white and non-shiny paper that is either 8½ by 11 inches (21.6 by 27.9 cm) or DIN size A4 (21.0 by 29.7 cm) with a one-inch (2.5 cm) margin on all sides in either case. Only one side of each page may be used. The Office will not return recorded documents, so original documents should not be submitted for recording.

■ 16. Revise § 3.27 to read as follows:

§ 3.27 Mailing address for submitting documents to be recorded.

Documents and cover sheets submitted by mail for recordation should be addressed to Mail Stop Assignment Recordation Services, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450, unless they are filed together with new applications.

■ 17. Amend § 3.31 by revising paragraphs (a)(7) and (c)(1) and adding a paragraph (f) to read as follows:

§ 3.31 Cover sheet content.

(a) * * *

(7) The signature of the party submitting the document. For an assignment document or name change filed electronically, the person who signs the cover sheet must either:

(i) Place a symbol comprised of letters, numbers, and/or punctuation marks between forward slash marks submission (*e.g.*/Thomas O'Malley III/) in the signature block on the electronic submission; or

(ii) Sign the cover sheet using some other form of electronic signature specified by the Director.

* * * * *

(c) * * *

(1) Indicate that the document relates to a Government interest; and

* * * * *

(f) Each trademark cover sheet should include the citizenship of the party conveying the interest and the citizenship of the party receiving the interest. In addition, if the party receiving the interest is a partnership or joint venture, the cover sheet should set forth the names, legal entities, and national citizenship (or the state or country of organization) of all general partners or active members that compose the partnership or joint venture.

■ 18. Revise § 3.34 to read as follows:

§ 3.34 Correction of cover sheet errors.

(a) An error in a cover sheet recorded pursuant to § 3.11 will be corrected only if:

(1) The error is apparent when the cover sheet is compared with the recorded document to which it pertains, and

(2) A corrected cover sheet is filed for recordation.

(b) The corrected cover sheet must be accompanied by a copy of the document originally submitted for recording and by the recording fee as set forth in § 3.41.

■ 19. Revise § 3.41(b)(2) to read as follows:

§ 3.41 Recording fees.

* * * * *

(b) * * *

(2) The document and cover sheet are either: Faxed or electronically submitted as prescribed by the Director, or mailed to the Office in compliance with § 3.27.

■ 20. Revise § 3.81 to read as follows:

§ 3.81 Issue of patent to assignee.

(a) *With payment of the issue fee:* An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in § 3.11.

(b) *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

(c) *Partial assignees.* (1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.

(2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees.

PART 5—SECRECY OF CERTAIN INVENTIONS AND LICENSES TO EXPORT AND FILE APPLICATIONS IN FOREIGN COUNTRIES

■ 21. The authority citation for 37 CFR part 5 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 41, 181–188, as amended by the Patent Law Foreign Filing Amendments Act of 1988, Pub. L. 100–418, 102 Stat. 1567; the Arms Export Control Act, as amended, 22 U.S.C. 2751 *et seq.*; the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*; the Nuclear Non Proliferation Act of 1978, 22 U.S.C. 3201 *et seq.*; and the delegations in the regulations under these Acts to the Director (15 CFR 370.10(j), 22 CFR 125.04, and 10 CFR 810.7).

■ 22. Revise 5.1(a) to read as follows:

§ 5.1 Applications and correspondence involving national security.

(a) All correspondence in connection with this part, including petitions, should be addressed to: Mail Stop L&R, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313–1450.

* * * * *

Dated: May 18, 2004.

Jon W. Dudas,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 04–11761 Filed 5–25–04; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 040–0448a; FRL–7662–2]

Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District, Feather River Air Quality Management District, Kern County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, San Bernardino County Air Pollution Control District, Santa Barbara County Air Pollution Control District, and Yolo-Solano Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the El Dorado County Air Pollution Control District (EDCAPCD), Feather River Air Quality Management District (FRAQMD), Kern County Air Pollution Control District (KCAPCD), Sacramento Metropolitan Air Quality Management District (SMAQMD), San Bernardino County Air Pollution Control District (now Mojave Desert Air Quality Management District) (MDAQMD), Santa Barbara County Air Pollution Control District (SBCAPCD), and Yolo-Solano Air Pollution Control District (YSAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that address emission statements.

DATES: This rule is effective on July 26, 2004, without further notice, unless EPA receives adverse comments by June 25, 2004. If we receive such comments, we will publish a timely withdrawal in the Federal Register to notify the public that this direct final rule will not take effect.

ADDRESSES: Send comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 or e-mail to *steckel.andrew@epa.gov*, or submit comments at *http://www.regulations.gov*.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667–4100.

Feather River Air Quality Management District, 938—14th Street, Marysville, CA 95901–4149.

Kern County Air Pollution Control District, 2700 "M" Street, Suite 302, Bakersfield, CA 93301–2370.

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392–2310.

Sacramento Metropolitan Air Quality Management District, 777—12th Street, Third Floor, Sacramento, CA 95814–1908.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117–3027.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616–4882.

Copies of the rules may also be available via the Internet at the following site, *http://www.arb.ca.gov/drdb/drdbltxt.htm*. Please be advised that this is not an EPA Web site and may not contain the same version of the rules that were submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, EPA Region IX, (415) 947–4126, *rose.julie@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
EDCAPCD	1000	Emission Statement	09/21/92	11/12/92
FRAQMD	4.8	Further Information	09/14/92	11/12/92
KCAPCD	108.2	Emission Statement Requirements	07/13/92	11/12/92
MDAQMD	107	Certification and Emission Statements	09/17/92	11/12/92
SMAQMD	105	Emission Statements	04/20/93	11/18/93
SBCAPCD	212	Emission Statements	10/20/92	11/12/92

Docket No. 3125-4002

COMBINED DECLARATION AND POWER OF ATTORNEY FOR ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART APPLICATION

As a below name inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION

the specification of which

a. [ ] is attached hereto

b. [X] was filed on September 21, 1999 as application Serial No. 09/400,413 and was amended on _____. (if applicable).

PCT FILED APPLICATION ENTERING NATIONAL STAGE

c. [ ] was described and claimed in International Application No. _____ filed on _____ and as amended on _____. (if any).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby specify the following as the correspondence address to which all communications about this application are to be directed:

SEND CORRESPONDENCE TO: MORGAN & FINNEGAN, L.L.P
345 Park Avenue
New York, N.Y. 10154

DIRECT TELEPHONE CALLS TO: _____
(212) 758-4800

[ ] I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) or under § 365(b) of any foreign application(s) for patent or inventor's certificate or under § 365(a) of any PCT international application(s) designating at least one country other than the U.S. listed below and also have identified below such foreign application(s) for patent or inventor's certificate or such PCT international application(s) filed by me on the same subject matter having a filing date within twelve (12) months before that of the application on which priority is claimed:

[ ] The attached 35 U.S.C. § 119 claim for priority for the application(s) listed below forms a part of this declaration.

Country/PCT	Application Number	Date of filing (day, month, yr)	Date of Issue (day, month, yr)	Priority Claimed
				[ ] YES [ ] NO
				[ ] YES [ ] NO
				[ ] YES [ ] NO

[ ] I hereby claim the benefit under 35 U.S.C. § 119(e) of any U.S. provisional application(s) listed below.

Provisional Application No.	Date of Filing (day, month, yr)

ADDITIONAL STATEMENTS FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART OR PCT INTERNATIONAL APPLICATION(S) (DESIGNATING THE U.S.)

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or under § 365(c) of any PCT international application(s) designating the U.S. listed below.

US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)

[ ] In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the above listed prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint the following attorneys and/or agents with full power of substitution and revocation, to prosecute this application, to receive the patent, and to transact all business in the Patent and Trademark Office connected therewith: John A. Diaz (Reg. No. 19,550), John C. Vassil (Reg. No. 19,098), Alfred P. Ewert (Reg. No. 19,887),

David H. Pfeffer (Reg. No. 19,825), Harry C. Marcus (Reg. No. 22,390), Robert E. Paulson (Reg. No. 21,046), Stephen R. Smith (Reg. No. 22,615), Kurt E. Richter (Reg. No. 24,052), J. Robert Dailey (Reg. No. 27,434), Eugene Moroz (Reg. No. 25,237), John F. Sweeney (Reg. No. 27,471), Arnold I. Rady (Reg. No. 26,601), Christopher A. Hughes (Reg. No. 26,914), William S. Feiler (Reg. No. 26,728), Joseph A. Calvaruso (Reg. No. 28,287), James W. Gould (Reg. No. 28,859), Richard C. Komson (Reg. No. 27,913), Israel Blum (Reg. No. 26,710), Bartholomew Verdirame (Reg. No. 28,483), Maria C.H. Lin (reg. No. 29,323), Joseph A. DeGirolamo (Reg. No. 28,595), Michael P. Dougherty (Reg. No. 32,730), Seth J. Atlas (Reg. No. 32,454), Andrew M. Riddles (Reg. No. 31,657), Bruce D. DeRenzi (Reg. No. 33,676), Michael M. Murray (Reg. No. 32,537), Mark J. Abate (Reg. No. 32,527), Alfred L. Haffner, Jr. (Reg. No. 18,919), Harold Haidt (Reg. No. 17,509), John T. Gallagher (Reg. No. 35,516), Steven F. Meyer (Reg. No. 35,613) and Kenneth H. Sonnenfeld (Reg. No. 33,285) of Morgan & Finnegan, L.L.P. whose address is: 345 Park Avenue, New York, New York, 10154; and Edward A. Pennington (Reg. No. 32,588), Michael S. Marcus (Reg. No. 31,727) and John E. Hoel (Reg. No. 26,279) of Morgan & Finnegan, L.L.P., whose address is 1775 Eye Street, Suite 400, Washington, D.C. 20006.

[ ] I hereby authorize the U.S. attorneys and/or agents named hereinabove to accept and follow instructions from _____ as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and/or agents and me. In the event of a change in the person(s) from whom instructions may be taken I will so notify the U.S. attorneys and/or agents hereinabove.

Full name of sole or first inventor Keith R. McNally

Inventor's signature* Keith R. McNally 10/25/99

Residence 5104 Seagrive Cove, San Diego CA 92130 ~~21567 Parvin Drive, Santa Clarita, CA 91350~~ date

Citizenship USA

Post Office Address _____

Full name of second joint inventor, if any William H. Roof

Inventor's signature* William H. Roof 10/25/99

date

Residence 13429 Luckett Court, San Diego, CA 92130

Citizenship USA

Post Office Address _____

Full name of third joint inventor, if any Richard Bergfeld

Inventor's signature* 10/25/99

date

Residence 20719 Nashville ~~Court~~ Street, Chatsworth, CA 91311

Citizenship USA

Apple, Exhibit 1012, Page 126

Post Office Address _____

[ ] ATTACHED IS/ARE ADDED PAGE(S) TO COMBINED DECLARATION AND POWER OF ATTORNEY FORM FOR SIGNATURE BY FOURTH AND SUBSEQUENT INVENTORS

* Before signing this declaration, each person signing must:

1. Review the declaration and verify the correctness of all information therein; and

2. Review the specification and the claims, including any amendments made to the claims.

After the declaration is signed, the specification and claims are not to be altered.

To the inventor(s):

The following are cited in or pertinent to the declaration attached to the accompanying application:

Title 37, Code of Federal Regulation, § 1.56

Duty to disclose information material to patentability.

(a) A patent by its very nature is affect with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

Title 35, U.S. Code § 101

Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Title 35 U.S. Code § 102

Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent,

(b) the invention was patented or described in a printed publication in this or 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, or

(c) he has abandoned the invention, or

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate field more than twelve months before the filing of the application in the United States, or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or

(f) he did not himself invent the subject matter sought to be patented, or

(g) before the applicant's invention thereof the invention was made in this country by another had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other ...

Title 35, U.S. Code § 103

Conditions for patentability; non-obvious subject matter

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

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed

invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, U.S. Code § 112 (in part)

Specification

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

Title 35, U.S. Code § 119

Benefit of earlier filing date in foreign country; right of priority

An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of he actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

Title 35, U.S. Code § 120

Benefit or earlier filing date in the United States

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

Please read carefully before signing the Declaration attached to the accompanying Application.

If you have any questions, please contact Morgan & Finnegan, L.L.P.

FORM:COMB-DEC.NY
Rev. 5/21/98

PATENT Attorney Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: McNally

Serial No.: 11/112,990

Filed: April 22, 2005

Group Art Unit: 2122

Examiner: TBA

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

REVOCATION/APPOINTMENT OF POWER OF ATTORNEY AND CONFIRMATION OF CORRESPONDENCE ADDRESS

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

Sir:

As assignee of record of the entire interest of the above identified application, by virtue of an Assignment recorded in the U.S. Patent and Trademark Office on 12/17/99 at Reel/Frame 010460/0511,

(1) I hereby revoke all previous Powers of Attorney or authorization of agents previously given in the above identified application/patent;

(2) I confirm that the correspondence address for the above-identified application/patent has been changed to the correspondence address associated with

CUSTOMER NUMBER: 27123

☒ To the attention of: John Osborne, Esq.

(3) In accordance with 37 CFR §1.32, I hereby appoint the practitioners associated with

CUSTOMER NUMBER: 27123

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with the above-captioned patent application, any divisionals and continuations thereof, any and all Letters Patents that may issue therefrom, and any reissues thereof, in accordance with the above-identified Assignment recorded in the USPTO.

Keith R. McNally

Date: June 1, 2006

Name: Keith McNally

Title: Chief Executive Officer of Ameranth Wireless (Assignee)
5375 Mira Sorrento Place, Suite 150
San Diego, CA 92121

Assignee, e.g., Corporation, Partnership, University, Government, Agency, etc.

Correspondence Address
Morgan & Finnegan, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 – Telephone (212) 415-8701 – Facsimile

Electronic Acknowledgement Receipt

EFS ID:	1066549
Application Number:	11112990
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor:	Keith R. McNally
Correspondence Address:	MORGAN & FINNEGAN, L.L.P. - 3 World Financial Center - New York NY 10281-2101 US 2124158701 -
Filer:	Angus Robert Gill/Jacqueline Revander
Filer Authorized By:	Angus Robert Gill
Attorney Docket Number:	3125-4003US1
Receipt Date:	05-JUN-2006
Filing Date:	22-APR-2005
Time Stamp:	10:46:11
Application Type:	Utility
International Application Number:	

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part	Pages
1		3125-4003US1_Transmittal_with_Revocation.pdf	165833	yes	2

	Multipart Description		
	Doc Desc	Start	End
	Transmittal letter	1	1
	Power of Attorney (may include Associate POA)	2	2

Warnings:	
Information:	
Total Files Size (in bytes):	165833

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	2

Application Number	11/112,990
Filing Date	April 22, 2005
First Named Inventor	Keith McNally
Art Unit	2122
Examiner Name	TBA
Attorney Docket Number	3125-4003US1

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) (please Identify below):

Remarks

-Revocation/Appointment of Power of Attorney and Confirmation of Correspondence Address - 1 page

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MORGAN & FINNEGAN, L.L.P.		
Signature	/Angus R. Gill/		
Printed name	Angus R. Gill		
Date	June 5, 2006	Reg. No.	51,133

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or 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 on the date shown below:

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/08a (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Not for submission under 37 CFR 1.99)

Application Number	11112990
Filing Date	2005-04-22
First Named Inventor	Keith R. McNally
Art Unit	2191
Examiner Name	TBA
Attorney Docket Number	3125-4003US1

U.S.PATENTS Remove

Examiner Initial*	Cite No	Patent Number	Kind Code[1]	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
	1	5724069		1998-03-03	Chen	
	2	5802526		1998-09-01	Fawcett et al.	
	3	5912743		1999-06-15	Kinebuchi et al.	
	4	5991739		1999-11-23	Cupps et al.	
	5	6107944		2000-08-22	Behr	

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Examiner Initial*	Cite No	Publication Number	Kind Code[1]	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Not for submission under 37 CFR 1.99)

Application Number	11112990
Filing Date	2005-04-22
First Named Inventor	Keith R. McNally
Art Unit	2191
Examiner Name	TBA
Attorney Docket Number	3125-4003US1

Examiner Initial*	Cite No	Foreign Document Number[3]	Country Code[2] i	Kind Code[4]	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear	T[5]
	1	EP0779759A2	EP		1997-06-18			☐
	2	WO9820434	PC		1998-05-14			☐
	3	WO9841936	PC		1998-09-24			☐

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NON-PATENT LITERATURE DOCUMENTS [Remove]

Examiner Initials*	Cite No	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, pages(s), volume-issue number(s), publisher, city and/or country where published.	T[5]
	1	"Graphic User Interface Builder Menu Construction Using A Tree-View Container" IBM Technical Disclosure Bulletin, Vol. 38, No. 9, September 1995.	☐
	2	"Entertainment Industry Leader Rich Rank Takes Helm At Cybermeals, World's Largest Online Meal Ordering System", 15 September 1998, <URL:http://www.food.com/food.sph/saisp... s/aboutus/pressrelease.jsp?id=228>, printed on 2001-04-20.	☐
	3	"W3C Putting Compact HTML, HDML to Test for Net Access - Mobile Markup Languages Face Off", Yoshiko Hara, 6 April 1998, <URL:http://www.techweb.com/se/directlink.cgi?eet19980406s0089>, printed on 1999-09-02.	☐

If you wish to add additional non-patent literature document citation information please click the Add button [Add]

EXAMINER SIGNATURE

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)		
	Application Number	11112990
	Filing Date	2005-04-22
	First Named Inventor	Keith R. McNally
	Art Unit	2191
	Examiner Name	TBA
	Attorney Docket Number	3125-4003US1

[1] See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. [2] Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). [3] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [4] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [5] Applicant is to place a check mark here if English language translation is attached.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (**Not for submission under 37 CFR 1.99)**		
	Application Number	11112990
	Filing Date	2005-04-22
	First Named Inventor	Keith R. McNally
	Art Unit	2191
	Examiner Name	TBA
	Attorney Docket Number	3125-4003US1

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☐ That each item of information contained in the 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 the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification 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 the information disclosure statement. See 37 CFR 1.97(e)(2).

☐ See attached certification statement.

☐ Fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☑ None

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	/Angus R. Gill/	Date (YYYY-MM-DD)	2006-08-25
Name/Print	Angus R. Gill	Registration Number	51133

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Acknowledgement Receipt

EFS ID:	1171489
Application Number:	11112990
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor:	Keith R. McNally
Customer Number:	27123
Filer:	Angus Robert Gill/Jacqueline Revander
Filer Authorized By:	Angus Robert Gill
Attorney Docket Number:	3125-4003US1
Receipt Date:	25-AUG-2006
Filing Date:	22-APR-2005
Time Stamp:	09:08:28
Application Type:	Utility
International Application Number:	

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part	Pages
1	Information Disclosure Statement (IDS) Filed	3125-4003US1_US_IDS_Form__SB_08a.pdf	910296	no	5

Warnings:					
Information:					
2	Foreign Reference	EP779759.pdf	4438338	no	108
Warnings:					
Information:					
3	Foreign Reference	WO1998020434.pdf	5315635	no	119
Warnings:					
Information:					
4	Foreign Reference	WO1998041936A1.pdf	2915597	no	75
Warnings:					
Information:					
5	NPL Documents	Graphic_User_Interface-IBM_Technical.pdf	87350	no	2
Warnings:					
Information:					
6	NPL Documents	Entertainment_Industry_Leader-Press_Release.pdf	191316	no	2
Warnings:					
Information:					
7	NPL Documents	Yoshiko_Hara_W3C_Putting_Compact.pdf	135053	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	13993585	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

PTO/SB/08a (08-03)
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Not for submission under 37 CFR 1.99)

Application Number	11112990
Filing Date	2005-04-22
First Named Inventor	Keith R. McNally
Art Unit	2191
Examiner Name	TBA
Attorney Docket Number	3125-4003US1

U.S.PATENTS Remove

Examiner Initial*	Cite No	Patent Number	Kind Code[1]	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
	1	6167255		2000-12-26	Kennedy, III et al.	
	2	6219696		2001-04-17	Wynblatt et al.	
	3	6341316		2002-01-22	Kloba et al.	
	4	6421717		2002-07-16	Kloba et al.	
	5	6553412		2003-04-22	Kloba et al.	
	6	6779042		2004-08-17	Kloba et al.	
	7	6839744		2005-01-04	Kloba et al.	
	8	6865261		2005-03-08	Rao et al.	

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)		
	Application Number	11112990
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	First Named Inventor	Keith R. McNally
	Art Unit	2191
	Examiner Name	TBA
	Attorney Docket Number	3125-4003US1

	9	6920431		2005-07-19	Showghi et al.	
	10	6973437		2005-12-06	Olewicz et al.	
	11	7000032		2006-02-14	Kloba et al.	
	12	6301564		2001-10-09	Halverson	
	13	6038545		2000-03-14	Mandeberg et al.	
	14	6208976		2001-03-27	Kinebuchi et al.	

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	1	20010047302		2001-11-29	Yoshinaga et al.	
	2	20030107588		2003-06-12	Elsbree et al.	
	3	20030067494		2003-04-10	Burns	

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Not for submission under 37 CFR 1.99)

Application Number	11112990
Filing Date	2005-04-22
First Named Inventor	Keith R. McNally
Art Unit	2191
Examiner Name	TBA
Attorney Docket Number	3125-4003US1

FOREIGN PATENT DOCUMENTS Remove

Examiner Initial*	Cite No	Foreign Document Number[3]	Country Code[2] i	Kind Code[4]	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear	T[5]
	1	GB2196766A	UK		1988-05-05			☐

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Examiner Initials*	Cite No	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, pages(s), volume-issue number(s), publisher, city and/or country where published.	T[5]
	1		☐

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Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1] See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. [2] Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). [3] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [4] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [5] Applicant is to place a check mark here if English language translation is attached.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)		
	Application Number	11112990
	Filing Date	2005-04-22
	First Named Inventor	Keith R. McNally
	Art Unit	2191
	Examiner Name	TBA
	Attorney Docket Number	3125-4003US1

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☐ That each item of information contained in the 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 the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification 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 the information disclosure statement. See 37 CFR 1.97(e)(2).

☐ See attached certification statement.

☐ Fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☒ None

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	/Angus R. Gill/	Date (YYYY-MM-DD)	2007-04-13
Name/Print	Angus R. Gill	Registration Number	51133

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	McNally	Confirmation No.	7098
		Group Art Unit:	2191
Serial No.:	11/112,990		
		Examiner:	TBA
Filed:	April 22, 2005		

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

INFORMATION DISCLOSURE STATEMENT

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

Attention: DO/EO/US

Sir:

This Information Disclosure Statement is filed in accordance with 37 C.F.R. §§1.56, 1.97 and 1.98. The items listed on Form PTO-1449, a copy of which is enclosed, are made of record to assist the Patent and Trademark Office in its examination of this application. The Examiner is respectfully requested to fully consider the items and to independently ascertain their teaching.

1. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, an English language translation of that item or a portion thereof or a concise explanation of the relevance of that item is enclosed:

2. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, a concise explanation of the relevance of that item is incorporated in the specification of the above-identified application.

3. ☐ Any copy of the items listed on the enclosed copy of Form PTO-1449 that is not enclosed with this Information Disclosure Statement was previously cited by or submitted to the Patent and Trademark Office in application Serial No. _____, filed _____.

4. ☒ No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with:

☐ 37 C.F.R. §1.97(b)(1), within three months of the filing date of a national application other than a CPA; or

☐ 37 C.F.R. §1.97(b)(2), within three months of the date of entry into the national stage as set forth in §1.491 in an international application; or

☒ 37 C.F.R. §1.97(b)(3), before the mailing date of a first Office action on the merits; or

☐ 37 C.F.R. §1.97(b)(4), before the mailing date of a first office action after the filing of an RCE under §1.114.

5. ☐ No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in paragraph 4 above but before the mailing date of a final action or a Notice of Allowance (where there has been no prior final action), and is accompanied by one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below.

6. ☐ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in paragraph 4 above but before the mailing date of a final action or a notice of allowance (where there has been no prior final action):

☐ A check in the amount of $180.00 is enclosed in payment of the fee.

☐ Charge the fee to Deposit Account No. 13-4500, Order No. _____.

7. ☐ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(d), after the mailing date of a final action or a notice of allowance, whichever comes first, but before payment of the issue fee, and is accompanied by:

a. one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below; and

b. the fee due under 37 C.F.R. §1.17(p) which is paid as set forth in paragraph 11 below.

8. ☐ This Information Disclosure Statement is being filed in compliance with:

a. ☐ 37 C.F.R. §1.313(b)(3) or §1.313(c)(1), after the issue fee has been paid and information cited in this Information Disclosure Statement may render at least one claim unpatentable and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h);

b. ☐ 37 C.F.R. §1.313(c)(2) or §1.313(c)(3), after the issue fee has been paid and information cited in this Information Disclosure Statement is to be considered in a Request for Continued Examination (RCE) or a Continuation application upon abandonment of the instant application and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h).

c. ☐ The fee due under 37 C.F.R. §§1.17(h) is paid as set forth in paragraph 11 below.

9. ☐ I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in a 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.

☐ I hereby certify that no item of information in the Information Disclosure Statement filed herewith was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

10. ☐ This document is accompanied by ☐ a Search Report ☐ Communication which was cited in a corresponding ☐ PCT and ☐ Foreign counterpart application

11. ☐ A check in the amount of $ is enclosed in payment of the fees due under 37 C.F.R. §§1.17(h) and 1.17(p).

☐ Charge the fees due under 37 C.F.R. §§1.17(h) and 1.17(p) to Deposit Account No. 13-4500, Order No. _____.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required for this Information Disclosure Statement, or credit any overpayment to Deposit Account No. 13-4500.,Order No. 3125-4003US1.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: April 13, 2007 By: _____
Angus R. Gill
Registration No. 51,133

Correspondence Address:
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(212) 415-8701 Facsimile

Electronic Acknowledgement Receipt

EFS ID:	1681889
Application Number:	11112990
International Application Number:	
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Customer Number:	27123
Filer:	Angus Robert Gill/Jacqueline Revander
Filer Authorized By:	Angus Robert Gill
Attorney Docket Number:	3125-4003US1
Receipt Date:	13-APR-2007
Filing Date:	22-APR-2005
Time Stamp:	15:52:59
Application Type:	Utility

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
1	Information Disclosure Statement (IDS) Filed	3125-4003US1_US_IDS_Form__SB_08a.pdf	790099	no	5
Warnings:					

Information:					
2	Miscellaneous Incoming Letter	3125-4003US1_IDS_Letter.pdf	132623	no	3
Warnings:					
Information:					
3	Foreign Reference	3125-4003US1_GB2196766.pdf	295874	no	5
Warnings:					
Information:					
			Total Files Size (in bytes):	1218596	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally, et al.	Group Art Unit:	2191
Filed:	April 22, 2005	Examiner:	Zhen, Wei Y.
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

SECOND PRELIMINARY AMENDMENT UNDER 37 C.F.R § 1.115

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

Sir:

Prior to examination on the merits, entry of the following Second Preliminary Amendment under 37 C.F.R. § 1.115 is respectfully requested. Please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper; and

Remarks begin on page 10 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. Claims 1-16 were cancelled by a previous preliminary amendment. By the present preliminary amendment, Claims 17-102 are cancelled without prejudice or disclaimer. New claims 103-127 are added by the present amendment. No new matter has been added.

1-16. (Previously cancelled)

17-102. (Cancelled)

103. (New) An information management and synchronous communications system for generating and transmitting menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a first graphical user interface,

d. a first menu including menu categories, menu items, modifiers and sub-modifiers, wherein said first menu is capable of being stored on said data storage device and said first menu is capable of being displayed in at least one window of said first graphical user interface, and

e. application software configured to generate a second menu for transmission to either a wireless handheld computing device or web page, wherein the application software is configured to generate said second menu by utilizing parameters defining the categories, items, modifiers and sub-modifiers from the first menu such that the information comprising the second menu is synchronized with analogous information comprising the first menu, wherein the application software is further configured to format the second menu such that

the second menu may include additional parameters to facilitate user operations with and display of the second menu on a second graphical user interface, said additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics of the wireless handheld computing device screen or web page or series of web pages.

104. (New) The information management and synchronous communications system in accordance with claim 103, further configured to automatically generate and transmit the second menu from the first menu.

105. (New) The information management and synchronous communications system in accordance with claim 104, further configured to automatically generate and transmit the second menu from the first menu in response to at least one of a predetermined time, or the occurrence of an event or a change in the first menu.

106. (New) The information management and synchronous communications system in accordance with claim 103 wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

107. (New) The information management and synchronous communications system in accordance with claim 103 further configured to transmit user selections from the second menu to a receiving computer by wireless link or via the internet.

108. (New) The information management and synchronous communications system in accordance with claim 103, further configured such that user selections from a second menu on either the wireless computing device or web page are automatically reflected in all

other storage or display elements of the system.

109. (New) The information management and synchronous communications system in accordance with claim 103, further configured to automatically format the second menu for display as cascaded sets of linked graphical user interface screens appropriate for the display characteristics of the wireless computing device.

110. (New) The information management and synchronous communications systems in accordance with claim 103 in which the modifiers and sub-modifiers in either the first or second menus may be further configured to be either required or not required.

111. (New) The information management and synchronous communications system in accordance with claim 103, further configured to include direct handwriting capture on the wireless device or conversion of the captured handwriting to text capabilities.

112. (New) The information management and synchronous communications system in accordance with claim 103, further configured to include voice capture or conversion to text capabilities.

113. (New) The information management and synchronous communications system in accordance with claim 103 wherein the second menu relates to ordering and in which the order can be associated with a particular customer or customers seated at a particular table or area.

114. (New) The information management and synchronous communications system in accordance with claim 103 in which the wireless handheld computing device is configured to facilitate selection of a printer to print receipts, checks or orders directly from the user interface of the wireless handheld computing device.

115. (New) The information management and synchronous communications system in accordance with claim 103 in which the wireless computing device is a smart phone or other consumer wireless communications device.

116. (New) The information management and synchronous communications system in accordance with claim 103, further configured to facilitate payment processing from the wireless handheld computing device.

117. (New) The information management and synchronous communications system in accordance with claim 103, further configured such that both the first and the generated second menus reflect a billing summary to facilitate processing of payments for an order on the wireless handheld computing device.

118. (New) An information management and synchronous communications system for generating and transmitting menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a first graphical user interface, said operating system configured to interoperate with the central processing unit, data storage device and application software,

d. a first menu including menu categories and menu items, wherein said first menu is capable of being stored on said data storage device,

e. a modifier menu capable of being stored on said data storage device, and

f. a sub-modifier menu capable of being stored on said data storage device,

wherein the application software is configured to generate a second menu for

transmission to either a wireless handheld computing device or web page, wherein the application software is configured to generate said second menu by utilizing parameters defining the categories and items from the first menu, modifiers from the modifier menu and sub-modifiers from the sub-modifier menu such that the information comprising the second menu is synchronized with analogous information comprising the first, modifier and sub-modifier menus,

wherein the application software is further configured to format the second menu either for use and display on a second graphical user interface of the wireless handheld computing device or for use and display on a web page or series of web pages in conformity with any applicable display constraints of such second graphical user interface of the wireless handheld computing device or web page or series of web pages, and

wherein the application software is also configured to format the second menu for user operations and display on the second graphical user interface of the wireless handheld computing device or web page or series of web pages such that the second menu as displayed on the second graphical user interface appears to a user to be substantially similar to the first menu as displayed on the first graphical user interface.

119. (New) The information management and synchronous communications system in accordance with claim 118, further configured to automatically generate the second menu from the first menu, the modifier menu and the sub-modifier menu.

120. (New) The information management and synchronous communications system in accordance with claim 118, wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or

waitlists, or ordering, or customer affinity or frequent customer programs.

121. (New) The information management and synchronous communications system in accordance with claim 118, further configured such that user selections from a second menu on either the wireless computing device or web page are automatically reflected in all other storage or display elements of the system.

122. (New) An information management and synchronous communications system for use with wireless handheld computing devices and the internet comprising:

a. a central database connected in said system and configured to store hospitality application information,

b. at least one wireless handheld computing device connected in said system and configured to display said hospitality application information,

c. at least one web server connected in said system and configured to display said hospitality application information,

d. at least one web page connected in said system and configured to display said hospitality application information, and

e. a communications control module linking the central database, wireless handheld computing device, web server and web page,

wherein the system is configured to synchronize the hospitality application information between the central database, at least one wireless handheld computing device, at least one web server and at least one web page such that substantially the same information comprising the hospitality application information is capable of being displayed on the wireless handheld computing device, at least one web page and other display screens of the synchronized

system, such that the hospitality application information is synchronized between any connected users, wherein the communications control module is configured to act as an interface between the elements of the system and any applicable communications protocol and wherein the system is configured to format the hospitality application information for display on both the wireless handheld device and web page in conformity with any applicable display constraints of the wireless handheld computing device or web page.

123. (New) The information management and synchronous communications system of claim 122, wherein the hospitality application information relates to at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

124. (New) The information management and synchronous communications system of claim 122, further configured to automatically communicate selections made from a menu on at least one web page or at least one wireless computing device and transmitted over the internet to either the central database or at least one wireless handheld computing device or at least one web page.

125. (New) The information management and synchronous communications system of claim 122, further configured to automatically communicate selections made from a menu on at least one wireless handheld computing device to either the central database or the web server.

126. (New) The information management and synchronous communications system in accordance with claim 122, wherein the hospitality information relates to payment processing.

127. (New) The information management and synchronous communications system in accordance with claim 122, wherein the wireless handheld computing device is a smart phone or other consumer wireless communications device.

REMARKS

A previous preliminary amendment was filed in this application on April 22, 2005. As a result of the previous preliminary amendment, claims 17-102 were pending in this application. By this preliminary amendment, claims 17-102 are cancelled without prejudice or disclaimer and new claims 103-127 have been added.

No new matter has been added by this preliminary amendment. Entry of this preliminary amendment prior to examination on the merits is respectfully requested.

An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

Applicants believe that this preliminary amendment is timely filed prior to examination on the merits. However, to the extent that any extension of time is necessary or any additional fees are required, Applicants hereby authorize the Commissioner to charge any additional fees, or credit any overpayment, to Deposit Account No. 13-4500 (Order No. 3125-4003US1).

Respectfully submitted,
MORGAN & FINNEGAN LLP

Dated: September 25, 2007

By: _____
Angus R. Gill
Registration No. 51,133

CORRESPONDENCE ADDRESS:
MORGAN & FINNEGAN L.L.P.
3 World Financial Center
New York, New York 10281
(212) 415-8700 (Telephone)
(212) 415-8701 (Facsimile)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally, et al.	Group Art Unit:	2191
Filed:	April 22, 2005	Examiner:	Zhen, Wei Y.
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

AMENDMENT FEE TRANSMITTAL

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

Sir:

Transmitted herewith is a Second Preliminary Amendment under 37 C.F.R. § 1.115 for the above-identified application.

X No additional fee is required.

The additional fee has been calculated as shown below:

CLAIMS AS AMENDED

	Claims Remaining After Amendment	Highest No. Covered by Previous Payments	Extra	Rate	Additional Fee
Total Claims*				$50.00/ $25.00	$
Independent Claims				$200.00/ $100.00	$
Multiple Dependent Claims	(If claims added by amendment include Multiple Dependent Claim(s) and there was no Multiple Dependent Claim(s) in application before amendment add $360.00 to additional fee ($180.00 for small entity).				$
				TOTAL	$

*Includes all independent and single dependent claims and all claims referred to in multiple dependent claims. See 37 C.F.R. §1.75(c).

☐ Small entity status is or has been claimed.
Reduced Fees Under 37 C.F.R. §1.9(f) paid herewith $_____

☐ _____ Pages Sequence Listing

☐ _____ Computer disk(s) containing substitute Sequence Listing

☐ Statement under 37 C.F.R. §1.825(b) that the computer and paper copies of the substitute Sequence Listing are the same.

☐ A check in the amount of $_____ to cover the filing fee is attached.

☐ Charge fee to Deposit Account No. **13-4500**, Order No. _____.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required for filing this amendment, including all fees pursuant to 37 CFR §1.17 for its timely consideration, or credit any overpayment to Deposit Account No. **13-4500**, Order No. 3125-4003US1.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: September 25, 2007 By: _____
Angus R. Gill
Registration No. 51,133

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3 World Financial Center
New York, New York 10281-2101

(212) 415-8700 Telephone
(212) 415-8701 Facsimile

Electronic Acknowledgement Receipt

EFS ID:	2238676
Application Number:	11112990
International Application Number:	
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Customer Number:	27123
Filer:	Angus Robert Gill/Jacqueline Revander
Filer Authorized By:	Angus Robert Gill
Attorney Docket Number:	3125-4003US1
Receipt Date:	25-SEP-2007
Filing Date:	22-APR-2005
Time Stamp:	15:38:03
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1		3125-4003US1_Second_Preliminary_Amendment.pdf	329825 16a991ecb8d8755e6d1dc666d6a4dd594656a8e3	yes	11

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Preliminary Amendment	1	1
	Claims	2	9
	Applicant Arguments/Remarks Made in an Amendment	10	11

Warnings:					
Information:					
2	Miscellaneous Incoming Letter	3125-4003US1_Amendment_Fee_Transmittal.pdf	57292 18a75ef19eff90a514e89a9b38dc351d8f6eadf0	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	387117		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
11/112,990	04/22/2005	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY ☒ FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 09/25/2007	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 25	Minus	** 103	= 0	X $25 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 3	Minus	***12	= 0	X $100 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
Stella Little

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	Keith McNally et al.	Group Art Unit:	2191
		Examiner:	Brophy, Matthew J.
Filed:	April 22, 2005		
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

INFORMATION DISCLOSURE STATEMENT

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

Sir:

This Information Disclosure Statement is filed in accordance with 37 C.F.R. §§1.56, 1.97 and 1.98. The items listed on Form PTO-1449, a copy of which is enclosed, are made of record to assist the Patent and Trademark Office in its examination of this application. The Examiner is respectfully requested to fully consider the items and to independently ascertain their teaching.

Applicants submit this information disclosure statement to make the U.S. Patent and Trademark Office aware of pending and concluded litigations involving patents which issued from applications from which the present application claims priority. Ameranth, Inc. v. Menusoft Systems Corp and Cash Register Sales & Service of Houston, Inc., (dba CRS Texas), 2-07-CV-271 (E.D. Tex.) is pending. Radiant Systems, Inc. v. Ameranth, Inc., 1-07-CV-1641 (N.D. Ga.) has concluded with a settlement including a license to the aforesaid issued Ameranth patents. The cited materials were generated or became known to the Applicants as a result of the litigations. The Examiner's attention is directed to the entirety of each of the pleadings listed on the attached Form 1449. Copies of the listed pleadings are provided. Applicants make this disclosure pursuant to its obligations under 37 C.F.R. 1.56.

1. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, an English language translation of that item or a portion thereof or a concise explanation of the relevance of that item is enclosed:

2. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, a concise explanation of the relevance of that item is incorporated in the specification of the above-identified application.

3. ☐ Any copy of the items listed on the enclosed copy of Form PTO-1449 that is not enclosed with this Information Disclosure Statement was previously cited by or submitted to the Patent and Trademark Office in application Serial No. _____, filed _____.

4. X No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with:

   ☐ 37 C.F.R. §1.97(b)(1), within three months of the filing date of a national application other than a CPA; or

   ☐ 37 C.F.R. §1.97(b)(2), within three months of the date of entry into the national stage as set forth in §1.491 in an international application; or

   X 37 C.F.R. §1.97(b)(3), before the mailing date of a first Office action on the merits; or

   ☐ 37 C.F.R. §1.97(b)(4) before the mailing date of a first office action after the filing of an RCE under §1.114.

5. ☐ No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in paragraph 4 above but before the mailing date of a final action or a Notice of Allowance (where there has been no prior final action), and is accompanied by one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below.

6. ☐ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in paragraph 4 above but before the mailing date of a final action or a notice of allowance (where there has been no prior final action):

   ☐ A check in the amount of $180.00 is enclosed in payment of the fee.

   ☐ Charge the fee to Deposit Account No. **13-4500**, Order No. _____. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

7. ☐ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(d), after the mailing date of a final action or a notice of allowance, whichever comes first, but before payment of the issue fee, and is accompanied by:

   a. one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below; and

   b. the fee due under 37 C.F.R. §1.17(p) which is paid as set forth in paragraph 11 below.

8. ☐ This Information Disclosure Statement is being filed in compliance with:

   a. ☐ 37 C.F.R. §1.313(b)(3) or §1.313(c)(1), after the issue fee has been paid and information cited in this Information Disclosure Statement may render at least one claim unpatentable and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h);

   b. ☐ 37 C.F.R. §1.313(c)(2) or §1.313(c)(3), after the issue fee has been paid and information cited in this Information Disclosure Statement is to be considered in a Request for Continued Examination (RCE) or a Continuation application upon abandonment of the instant application and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h).

   c. ☐ The fee due under 37 C.F.R. §§1.17(h) is paid as set forth in paragraph 11 below.

9. ☐ I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in a 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.

   ☐ I hereby certify that no item of information in the Information Disclosure Statement filed herewith was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

10. ☐ This document is accompanied by ☐ a Search Report ☐ Communication which was cited in a corresponding ☐ PCT or ☐ Foreign counterpart application

11. ☐ A check in the amount of $ is enclosed in payment of the fees due under 37 C.F.R. §§1.17(h) and 1.17(p).

   ☐ Charge the fees due under 37 C.F.R. §§1.17(h) and 1.17(p) to Deposit Account No. **13-4500**, Order No. _____. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required for this Information Disclosure Statement, or credit any overpayment to Deposit Account No. **13-4500**, Order No. 3125-4003US1. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 14, 2008 By: _____

Angus R. Gill
Registration No. 51,133

Correspondence Address:
Address Associated With Customer Number:
27123

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FORM PTO-1449 INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: McNally	
	Filing Date: April 22, 2005	Group Art Unit: 2191

U.S. PATENT DOCUMENTS

Examiner Initial	Patent Number	Publication Date	Name	Class	Sub-Class	Filing Date
	5,003,472	03/26/91	Perrill et. al.			12/06/89
	7,234,640	06/26/07	Pentel			07/12/04
	6,880,750	04/19/05	Pentel			08/16/02
	6,435,406	08/20/02	Pentel			10/06/00
	6,425,524	07/30/02	Pentel			08/27/99
	5,969,968	10/19/99	Pentel			04/17/98
	5,845,263	12/1/98	Camaisa et al.			06/16/95
	5,510,979	04/23/96	Moderi et al.			03/13/95
	4,530,067	07/16/85	Dorr			06/25/82

FOREIGN PATENT DOCUMENTS

Examiner Initial	Patent Number	Publication Date	Country	Class	Sub-Class	Translation
						☐ Yes ☐ No
						☐ Yes ☐ No
						☐ Yes ☐ No
						☐ Yes ☐ No
						☐ Yes ☐ No
						☐ Yes ☐ No
						☐ Yes ☐ No
						☐ Yes ☐ No

OTHER DOCUMENTS *(Including Author, Title, Date, Pertinent Papers, etc.)*

	Complaint for Patent Infringement, June 28, 2007, *Ameranth, Inc. v. Menusoft Systems Corporation and Cash Register Sales & Service of Houston, Inc. (dba CRS Texas)*, 2-07-CV-271, (E.D. Tex.)
	Defendants Menusoft Systems Corporation and Cash Register Sales & Service of Houston, Inc.'s Original Answer, Defenses, and Counterclaims, Sept. 4, 2007, *Ameranth, Inc. v. Menusoft Systems Corporation and Cash Register Sales & Service of Houston, Inc. (dba CRS Texas)*, 2-07-CV-271, (E.D. Tex.)
	Plaintiff Ameranth, Inc.'s Reply to Defendants Menusoft Systems Corporation and Cash Register Sales & Service of Houston, Inc.'s Counterclaims, September 24, 2007, *Ameranth, Inc. v. Menusoft Systems Corporation and Cash Register Sales & Service of Houston, Inc. (dba CRS Texas)*, 2-07-CV-271, (E.D. Tex.)
	Complaint for Declaratory Judgment of Patent Non-Infringement and Invalidity, July 17, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)
	Defendant and Counterclaim Plaintiff Ameranth, Inc.'s Answer and Counterclaims for Patent Infringement, Aug. 10, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)
	Reply to Counterclaims, Sept. 4, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)

Examiner	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.	

FORM PTO-1449 INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: McNally	
	Filing Date: April 22, 2005	Group Art Unit: 2191

	OTHER DOCUMENTS *(Including Author, Title, Date, Pertinent Papers, etc.)*
	Radiant Systems, Inc.'s Motion For Leave To File A First Amended Complaint For Declaratory Judgment Of Patent Non-Infringement, Invalidity And Inequitable Conduct, Oct. 5, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)
	Radiant Systems, Inc.'s Memorandum In Support Of Its Motion For Leave To File A First Amended Complaint For Declaratory Judgment of Patent Non-Infringement, Invalidity And Inequitable Conduct, Oct. 5, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)
	Exhibit A to Radiant Systems, Inc.'s Motion For Leave --- First Amended Complaint For Declaratory Judgment Of Patent Non-Infringement, Invalidity And Inequitable Conduct, Oct. 5, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)
	Exhibit B to Radiant Systems, Inc.'s Motion For Leave --- FSTEC, Show Directory, Oct. 1996
	Exhibit C to Radiant Systems, Inc.'s Motion For Leave --- Declaration And Power of Attorney for Appl. No. 09/400,413, now U.S. Patent No. 6,384,850, Oct. 25, 1999
	Exhibit D to Radiant Systems, Inc.'s Motion For Leave --- FSTEC, Show Directory, Nov. 1997
	Exhibit E to Radiant Systems, Inc.'s Motion For Leave --- FSTEC, Show Directory, Nov. 1998
	Exhibit F to Radiant Systems, Inc.'s Motion For Leave --- Ameranth webpage, 1998
	Exhibit G to Radiant Systems, Inc.'s Motion For Leave --- Office Action, Nov. 29, 2000, for Appl. No. 09/400,413, now U.S. Patent No. 6,384,850
	Exhibit H to Radiant Systems, Inc.'s Motion For Leave --- Marked-up claims of Appl. No. 09/400,413, now U.S. Patent No. 6,384,850
	Exhibit I to Radiant Systems, Inc.'s Motion For Leave --- Amendment & Response to Nov. 29, 2000 Office Action, Feb. 26, 2001, for Appl. No. 09/400,413, now U.S. Patent No. 6,384,850
	Exhibit J to Radiant Systems, Inc.'s Motion For Leave --- Notice of Allowability, Nov. 24, 2004, for Appl. No. 10/015,729, now U.S. Patent No. 6,871,325
	Ameranth's Opposition To Radiant's Motion For Leave To File A First Amended Complaint, Oct. 22, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)
	Exhibit 1 to Ameranth's Opposition --- International Search Report, Nov. 21, 2000, for PCT/US00/25863
	Exhibit 2 to Ameranth's Opposition --- International Search Report, May 17, 2005, for PCT/US04/13206
	Exhibit 3 to Ameranth's Opposition --- Written Opinion of the International Searching Authority, May 20, 2005, for PCT/US04/13206
	Exhibit 4 to Ameranth's Opposition --- International Search Report, Mar. 1, 2001, for PCT/US00/31510
	Exhibit 5 to Ameranth's Opposition --- International Preliminary Examination Report, June 20, 2001, for PCT/US04/13206
	Exhibit 6 to Ameranth's Opposition --- International Search Report, July 4, 2003, for PCT/US03/08050
	Exhibit 7 to Ameranth's Opposition --- Notice of Allowability, Mar. 18, 2005, Appl. No. 10/136,873, now U.S. Patent No. 7,028,264
	Exhibit 8 to Ameranth's Opposition --- Allowed Claims of Appl. No. 10/136,873, now U.S. Patent No. 7,028,264
	Exhibit 9 to Ameranth's Opposition --- Specification of Appl. No. 10/136,873, now U.S. Patent No. 7,028,264
	Exhibit 10 to Ameranth's Opposition --- Statement Regarding Notice of Allowance, Apr. 12, 2005, Appl. No. 10/136,873, now U.S. Patent No. 7,028,264
	Exhibit 11 to Ameranth's Opposition --- Notice of Allowability, Oct. 15, 2004, Appl. No. 10/079,739, now U.S. Patent No. 6,857,105

Examiner	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.	

1098299 v1

FORM PTO-1449 INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: McNally	
	Filing Date: April 22, 2005	Group Art Unit: 2191

	OTHER DOCUMENTS *(Including Author, Title, Date, Pertinent Papers, etc.)*
	Radiant Systems, Inc.'s Reply Brief In Further Support Of Its Motion For Leave To File A First Amended Complaint, Oct. 29, 2007, *Radiant Systems, Inc. v. Ameranth, Inc.*, 1-07-CV-1641, (N.D. Ga.)
	Exhibit A to Radiant Systems, Inc.'s Reply Brief In Further Support Of Its Motion For Leave To File A First Amended Complaint --- U.S. Patent No. 5,580,214
	[redacted]
	Hamilton, Martha M., "Computers on the Menu," Washington Business, Dec. 18, 1995
	Letter from Ronald D. Coleman, President & CEO of MarCole Interactive Systems to George L. Kanabe, Fish & Richardson P.C., Oct. 2, 2007
	MarCole Enterprises, Inc. Catalog, Tabletop Merchandising and Gift Registry System Flow, 1993
	MarCole Press Release, *MarCole Introduces New Gift Registry System Products at Retail Systems '96*, May 20, 1996
	MarCole Press Release, *MarCole Enterprises Wins ISA's Coveted Interactive Marketing Best Multimedia Application Award*, July 23, 1996
	MarCole Press Release, *MarCole's Interactive Shopping and Gift Registry System to Rollout to all Reading China & More! Stores*, Sept. 30, 1996
	MarCole Press Release, *MarCole's Interactive Shopping System to Offer NFL Team Home Products at Super Bowl XXXI*, Jan. 15, 1997
	Rubinstein, Ed, *Wish Lists, Is Gift Registry the Most Profitable Kiosk Of All?*, Kiosk Business, Jan./Feb. 2002
	MarCole Draft New Release, *MarCole Enterprises Named NCR Retail Solution Partner*, Aug. 19, 1998
	Brookins, Laurie, *State of the Heart, Crafting a High-Tech Registry for the New Bride and Groom*, The Gourmet Retailer, Nov. 1999
	Tableware Today, *MarCole Gift Registry Works v.5.0*, June/July 2002
	Kiosk, *The Gift Registry Kiosk*, 2002
	Killam, Jim, *Interactive Kiosks Score In-Store*, Sales And Marketing Strategies & News, Mar. 199?
	OfficeWorld News, Interactive Multimedia Systems Transform Superstore Shopping, Feb. 1996
	Jankowski, Wanda, *Electronic Kiosks: Boon for Retailers?*, Gifts & Decorative Accessories, Oct. 1995
	Hawk, Amanda Kate, *Kiosks! The Good, The Bad, and the Best*, RIS News, Sept. 1996
	Porter, Thyra, *MarCole Signs New Tabletop Manufacturers*, Kitchenware News, Mar. 1996
	Promotion Audit, *Office Depot Installs Interactive Shopping System*, Apr. 1996
	Kehoe, Ann-Margaret, *Wooing Brides with Technology*, Home Furnishings Daily, Oct. 11, 1993
	Brandweek, *Dayton Hudson Grows Kiosk Test*, Elaine Underwood, May 8, 1995
	Gift & Stationary Business, *Pull In A China Shop*, June 1993
	Kehoe, Ann-Margaret, *Technology Comes to Tabletop*, Home Furnishings Daily, May 24, 1993

Examiner	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.	

Electronic Acknowledgement Receipt

EFS ID:	3002746
Application Number:	11112990
International Application Number:	
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Customer Number:	27123
Filer:	Brad Michael Scheller/Scholasatica Constable
Filer Authorized By:	Brad Michael Scheller
Attorney Docket Number:	3125-4003US1
Receipt Date:	14-MAR-2008
Filing Date:	22-APR-2005
Time Stamp:	16:12:44
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1		3125-4003US1IDS.pdf	482097 184bb10342255311 2b5052b64d4386b 7d84df1f2	yes	7

	Multipart Description/PDF files in .zip description					
	Document Description		**Start**		**End**	
	Information Disclosure Statement Letter		1		4	
	Information Disclosure Statement (IDS) Filed		5		7	
Warnings:						
Information:						
2	NPL Documents	3125-1_Complaint.pdf	868611 22f3b7fd9e4839521b7ab54185204c47c0dcabac		no	16
Warnings:						
Information:						
3	NPL Documents	3125-2_Answer.pdf	1128111 1addd908d07d399c0963f803084c3d8c444c8ac2		no	22
Warnings:						
Information:						
4	NPL Documents	3125-3_Reply.pdf	597788 f5a331bd63b695761b8ff28b9ac01de9ce851e2d		no	11
Warnings:						
Information:						
5	NPL Documents	3125-4C0mplaintDeclJudment.pdf	298763 39564411c5ebd3cabbe014e46563fade3fc9426d		no	11
Warnings:						
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6	NPL Documents	3125-5AnswerCounterclaims.pdf	1255239 0e81e75bc0945d446f08272a0eaaace2628ce0dc		no	34
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7	NPL Documents	3125-6ReplyCounterclaims.pdf	697201 6e1aa99a5ae21e89b1fafabd4927b2d91de322fa		no	23
Warnings:						
Information:						
8	NPL Documents	3125-7MotionForLeave.pdf	122923 76b7c863842610a8122df01d8de348b0265c1421		no	4
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9	NPL Documents	3125-8MemorandumInSupport.pdf	777135 72ad267dd3cbddeebe103186ce511d8e3eccf3f	no	21
Warnings:					
Information:					
10		3125-9ExhibitA-J.pdf	2761327 6c858f59dabe66a386dc212fab38135e410507f6	yes	73

Multipart Description/PDF files in .zip description

Document Description	Start	End
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NPL Documents	44	45
NPL Documents	46	52
NPL Documents	53	61
NPL Documents	62	69
NPL Documents	70	73

Warnings:					
Information:					
11		3125-10OppositionAndExhibits1-11.pdf	5725660 2bb54fdf3e3cccf6047bb11c027305fffe8b3c1f	yes	123

Multipart Description/PDF files in .zip description

Document Description	Start	End
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NPL Documents	43	44

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	NPL Documents		60	64	
	NPL Documents		65	69	
	NPL Documents		70	107	
	NPL Documents		108	109	
	NPL Documents		110	123	
Warnings:					
Information:					
12		3125-11ReplyBriefAndExhibitA.pdf	6706958 2137bd99512606a27891b7c4780ba6ff07e4d912	yes	100
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
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	NPL Documents		16	25	
	NPL Documents		26	27	
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	NPL Documents	89	90
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	NPL Documents	95	100
Warnings:			
Information:			
		Total Files Size (in bytes):	21421813

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/112,990	04/22/2005	Keith R. McNally	3125-4003US1	7098

27123 7590 03/28/2008
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER	
BROPHY, MATTHEW J	
ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
03/28/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com
Shopkins@Morganfinnegan.com
jmedina@Morganfinnegan.com

Office Action Summary	Application No.	Applicant(s)	
	11/112,990	MCNALLY ET AL.	
	Examiner	Art Unit	
	MATTHEW J. BROPHY	2191	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 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 *22 April 2005*.

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) *103-127* 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) *103-127* 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 *22 April 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/SB/08) Paper No(s)/Mail Date *4/13/2007 and 8/25/2006 and 3/14/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Apple, Exhibit 1012, Page 181

DETAILED ACTION

Claim Rejections - 35 USC § 103

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

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

2. Claims 103-110 and 112-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,912,743 Kinebuchi et al hereinafter Kinebuchi in view of US Patent Showghi et al hereinafter Showghi and further in view of US Patent 5,724,069 Chen et al hereinafter Chen.

Regarding Claim 103, Kinebuchi teaches:

103. (New) An information management and synchronous communications system for generating and transmitting menus comprising: a. a central processing unit **(Column 7, Lines 33-38, "The POS system 10 is configured to comprise the host computer 20, an input-output terminal device 22 that functions as an input-output means, and a register 24 that keeps track of all money transactions. This POS system 10 uses an RF module 26 as a relay terminal to keep in contact with the order-taking terminal devices 40-1, 40-2 . . . on the tables 30 within the restaurant.")**, b. a data storage device connected to said central processing unit **(Column 7, Lines 33-38, "The POS system 10 is configured to comprise the host computer 20, an input-output terminal device 22 that functions as an input-output means, and a register 24 that keeps track of all money transactions. This POS system 10 uses an RF module 26**

as a relay terminal to keep in contact with the order-taking terminal devices 40-1, 40-2 . . . on the tables 30 within the restaurant."), c. an operating system including a first graphical user interface **(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to function as a main piece of management equipment for order management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be transferred to the terminal devices 40." And column 9, Line 65 to column 10 Line 5, "The distinctive characteristic of this embodiment lies in the manner in which an operating program and image data that is stored in the receive data storage section 54 of the order-taking terminal device 40 is sent from the on-site POS system 10 when the order management system starts up. This ensures that the order management system can respond rapidly to variations such as changes and additions to the menu." Inherent here is that host computer 10, which is part of the POS system, provides a GUI for menu modification.)**, d. a first menu including menu categories, menu items, <<modifiers and sub-modifiers>> wherein said first menu is capable of being stored on said data storage device and said first menu is capable of being displayed in at least one window of said first graphical user interface, and**(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to function as a main piece of management equipment for order**

management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be transferred to the terminal devices 40." And column 9, Line 65 to column 10 Line 5, "The distinctive characteristic of this embodiment lies in the manner in which an operating program and image data that is stored in the receive data storage section 54 of the order-taking terminal device 40 is sent from the on-site POS system 10 when the order management system starts up. This ensures that the order management system can respond rapidly to variations such as changes and additions to the menu." Inherent here is that the orginal menu on POS system 1 (which is transmitted to the terminal device), would have the same categories and sub-categories of the menu viewed at the terminal device) e. application software configured to generate a second menu for transmission to either a wireless handheld computing device or web page, wherein the application software is configured to generate said second menu by utilizing parameters defining the categories, items, <modifiers and sub-modifiers> from the first menu such that the information comprising the second menu is synchronized with analogous information comprising the first menu, wherein the application software is further configured to format the second menu such that the second menu may include additional parameters to facilitate user operations with and display of the second menu on a second graphical user interface **(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to**

function as a main piece of management equipment for order management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be transferred to the terminal devices 40." Also Column 7, Lines 33-38, "The POS system 10 is configured to comprise the host computer 20, an input-output terminal device 22 that functions as an input-output means, and a register 24 that keeps track of all money transactions. This POS system 10 uses an RF module 26 as a relay terminal to keep in contact with the order-taking terminal devices 40-1, 40-2 . . . on the tables 30 within the restaurant.") However, Kinebuchi does not explicitly teach: said additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics of the wireless handheld computing device screen or web page or series of web pages However, this limitation it taught by Showghi. **(Showghi Column 4, Lines 49-58, "FIG. 2 illustrates a system that is based on the existing wireless telecommunications and Internet infrastructure. In this system conventional hand-held wireless communication devices, such as two-way pagers 22 (FIG. 3a), cell phones 24 (FIG. 3b) and PDAs 26 (FIG. 3c) would also be useful as remote ordering devices. Here orders would be received by a base transceiver station 28. These signals would be transmitted by service providers 30 on the internet 32 to the venue fulfillment center server 16 and order processing computers 18." And e.g. Column 4, Lines 24-29, "These special devices 10 are stored in a combination battery charger/programming unit,**

or docking station, which keeps the devices' batteries charged and provides the current menu of items offered for sale, which can be selectively presented for viewing on the device's display screen 20 or audibly via a speaker in the device."). In addition it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kinebuchi with the wireless devices of Showghi as both patents teach a system for ordering food, and the devices taught in Showghi would allow the system of Kinebuchi to be implemented in a portable computing environment. Further, Neither Kinebuchi nor Showghi explicitly teach the menu including : modifiers and sub-modifiers. However, this limitation is taught by Chen. **(Column 8, Lines 21-44, "Beginning with FIG. 4A, the screen 30 shows graphic representations 46 in rectangular boxes for options on the root level of the menu tree, indicating that the user can order dinner, lunch, appetizer, refreshments or drink. The graphic representation labeled DINNER in FIG. 4A is shaded to indicate that it is selected by the user. The same convention is used in FIGS. 4B-4F. The representations labeled DELETE LAST and REPEAT LAST allow the user to change the last selected item, or to duplicate it. Moving now to FIG. 4B, after the user selects the dinner option, the screen shows different types of entree, and steak is selected. FIGS. 4C & 4D show screen displays allowing the user to select the type of steak and how it is cooked. FIG. 4E shows that the user can choose between salad and French fries (FF), and the user chooses salad. After choosing salad the order for dinner is complete, and the screen display in FIG. 4F shows again representations 46 for the options on the root level. The**

waiter can then enter other selections such as a drink order or another dinner or, alternatively, can actuate the enter pushbutton which enters the order for processing. Displays in the kitchen and other related aspects of the system are not directly related to the present invention and therefore will not be described."). Finally, it would have been obvious at the time of the invention to combine the teachings of Kinebuchi with the modifying menu's of Chen as Chen's modifier would allow a user to customize details of their order in a manner well-known in the restaurant industry, on the system of Kinebuchi.

Regarding Claims 104-108, 114, 116 and 117, Kinebuchi further teaches:

104. (New) The information management and synchronous communications system in accordance with claim 103, further configured to automatically generate and transmit the second menu from the first menu **(column 9, Line 65 to column 10 Line 5, "The distinctive characteristic of this embodiment lies in the manner in which an operating program and image data that is stored in the receive data storage section 54 of the order-taking terminal device 40 is sent from the on-site POS system 10 when the order management system starts up. This ensures that the order management system can respond rapidly to variations such as changes and additions to the menu.")**.

105. (New) The information management and synchronous communications system in accordance with claim 104, further configured to automatically generate and transmit

the second menu from the first menu in response to at least one of a predetermined time, or the occurrence of an event or a change in the first menu **(column 9, Line 65 to column 10 Line 5, "The distinctive characteristic of this embodiment lies in the manner in which an operating program and image data that is stored in the receive data storage section 54 of the order-taking terminal device 40 is sent from the on-site POS system 10 when the order management system starts up. This ensures that the order management system can respond rapidly to variations such as changes and additions to the menu.")**.

106. (New) The information management and synchronous communications system in accordance with claim 103 wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs **(e.g. Column 7, Lines 24-32, "A first preferred embodiment of the present invention is shown in FIG. 1. This order management system controls orders at a restaurant located at a site such as an amusement park. Specifically, it is configured to comprise an on-site (i.e., installed at the restaurant) point-of-sales (POS) system 10 that functions as a main piece of management equipment for order management and a plurality of order-taking terminal devices 40-1, 40-2 . . . located on each of the tables 30-1, 30-2 . . . of the restaurant.")**.

107. (New) The information management and synchronous communications system in

accordance with claim 103 further configured to transmit user selections from the second menu to a receiving computer by wireless link or via the internet **(e.g. Column 8, Lines 61-67, "When an order is placed from one of the order-taking terminal devices 40, the on-site POS system 10 temporarily stores details of that order in the memory 28 and also outputs a printout of the order from the input-output terminal device 22. If this restaurant is a fast-food restaurant, when an order is received, details of that order are processed at the register 24 to compute the bill, then those details are output as a printout from the input-output terminal device 22.")**.

108. (New) The information management and synchronous communications system in accordance with claim 103, further configured such that user selections from a second menu on either the wireless computing device or web page are automatically reflected in all other storage or display elements of the system **(e.g. Column 8, Lines 61-67, "When an order is placed from one of the order-taking terminal devices 40, the on-site POS system 10 temporarily stores details of that order in the memory 28 and also outputs a printout of the order from the input-output terminal device 22. If this restaurant is a fast-food restaurant, when an order is received, details of that order are processed at the register 24 to compute the bill, then those details are output as a printout from the input-output terminal device 22.")**

114. (New) The information management and synchronous communications system in accordance with claim 103 in which the wireless handheld computing device is configured to facilitate selection of a printer to print receipts, checks or orders directly from the user interface of the wireless handheld computing device **(e.g. Column 8, Lines 61-67, "When an order is placed from one of the order-taking terminal devices 40, the on-site POS system 10 temporarily stores details of that order in the memory 28 and also outputs a printout of the order from the input-output terminal device 22. If this restaurant is a fast-food restaurant, when an order is received, details of that order are processed at the register 24 to compute the bill, then those details are output as a printout from the input-output terminal device 22.")**.

116. (New) The information management and synchronous communications system in accordance with claim 103, further configured to facilitate payment processing from the wireless handheld computing device **(Column 15, Lines 18-28, "In this way, the user orders the desired items of food (steps S212, S214, and S216). Once this sequence of orders is completed, the user touches the computation button 230 that is displayed in a manner such as that shown in FIG. 20. This causes a total charge screen such as that shown in FIG. 23A to appear on the display screen 42 (step S218). A written caption 290 indicating the total bill for the products that the user has ordered, an OK button 292, and a cancel button 294 are displayed on**

this final-total screen. The user then touches the OK button 292 to agree to the bill for this order, or the cancel button 294 to correct the order.").

117. (New) The information management and synchronous communications system in accordance with claim 103, further configured such that both the first and the generated second menus reflect a billing summary to facilitate processing of payments for an order on the wireless handheld computing device **(Column 15, Lines 18-28, "In this way, the user orders the desired items of food (steps S212, S214, and S216). Once this sequence of orders is completed, the user touches the computation button 230 that is displayed in a manner such as that shown in FIG. 20. This causes a total charge screen such as that shown in FIG. 23A to appear on the display screen 42 (step S218). A written caption 290 indicating the total bill for the products that the user has ordered, an OK button 292, and a cancel button 294 are displayed on this final-total screen. The user then touches the OK button 292 to agree to the bill for this order, or the cancel button 294 to correct the order.")**.

Regarding Claim 109, 112, 113 and 115 Showghi further teaches:

109. (New) The information management and synchronous communications system in accordance with claim 103, further configured to automatically format the second menu for display as cascaded sets of linked graphical user interface screens appropriate for the display characteristics of the wireless computing device **(e.g. Column 5, Lines 39-57, "FIG. 4 displays sample hierarchical menus that are programmed into special remote ordering devices 10 and illustrate the variety of functions possible. The**

menus include a major item classification menu 34, a drink menu 36 and sub-menu 38, a control menu 40, a payment menu 42 and a verification menu 44. These menus are also transmittable through the FIG. 2 system for display on or announcement by conventional hand-held wireless devices 22, 24, 26 brought into the venue by patrons.

This system of menus, carried by or transmittable to the remote ordering devices, enables patrons to easily select any quantity and variety of items at any time while in the venue, order and pay for the items, all without moving from the patron's seat. Also, orders may be placed from any location within the venue by a patron for delivery to the patron's seat. This contrasts with systems where orders are taken by order-taking personnel, such as wait staff, but only from the patron while the patron is seated.").

112. (New) The information management and synchronous communications system in accordance with claim 103, further configured to include voice capture or conversion to text capabilities **(Column 4, Lines 59-65, "With the advent of advancing voice recognition technology, it is contemplated that orders could be transmitted orally via microphones in the devices. Also, the menus could be announced via speakers in the devices, for benefit of the visually impaired, or voice prompts could be provided as the visible menus are traversed to enhance the ordering process.")**.

113. (New) The information management and synchronous communications system in

accordance with claim 103 wherein the second menu relates to ordering and in which the order can be associated with a particular customer or customers seated at a particular table or area **(Showghi e.g. Column 5, Lines 39-57, "FIG. 4 displays sample hierarchical menus that are programmed into special remote ordering devices 10 and illustrate the variety of functions possible. The menus include a major item classification menu 34, a drink menu 36 and sub-menu 38, a control menu 40, a payment menu 42 and a verification menu 44. These menus are also transmittable through the FIG. 2 system for display on or announcement by conventional hand-held wireless devices 22, 24, 26 brought into the venue by patrons. This system of menus, carried by or transmittable to the remote ordering devices, enables patrons to easily select any quantity and variety of items at any time while in the venue, order and pay for the items, all without moving from the patron's seat. Also, orders may be placed from any location within the venue by a patron for delivery to the patron's seat. This contrasts with systems where orders are taken by order-taking personnel, such as wait staff, but only from the patron while the patron is seated.")**.

115. (New) The information management and synchronous communications system in accordance with claim 103 in which the wireless computing device is a smart phone or other consumer wireless communications device **(Showghi Column 4, Lines 49-58, "FIG. 2 illustrates a system that is based on the existing wireless telecommunications and Internet infrastructure. In this system conventional**

hand-held wireless communication devices, such as two-way pagers 22 (FIG. 3a), cell phones 24 (FIG. 3b) and PDAs 26 (FIG. 3c) would also be useful as remote ordering devices. Here orders would be received by a base transceiver station 28. These signals would be transmitted by service providers 30 on the internet 32 to the venue fulfillment center server 16 and order processing computers 18.").

Regarding Claim 110, Chen further teaches:

110. (New) The information management and synchronous communications systems in accordance with claim 103 in which the <modifiers and sub-modifiers> in either the first or second menus may be further configured to be either required or not required **(Column 8, Lines 21-44, "Beginning with FIG. 4A, the screen 30 shows graphic representations 46 in rectangular boxes for options on the root level of the menu tree, indicating that the user can order dinner, lunch, appetizer, refreshments or drink. The graphic representation labeled DINNER in FIG. 4A is shaded to indicate that it is selected by the user. The same convention is used in FIGS. 4B-4F. The representations labeled DELETE LAST and REPEAT LAST allow the user to change the last selected item, or to duplicate it. Moving now to FIG. 4B, after the user selects the dinner option, the screen shows different types of entree, and steak is selected. FIGS. 4C & 4D show screen displays allowing the user to select the type of steak and how it is cooked. FIG. 4E shows that the user can choose between salad and French fries (FF), and the user chooses salad. After choosing salad the order for dinner is complete, and the screen display in FIG. 4F shows**

again representations 46 for the options on the root level. The waiter can then enter other selections such as a drink order or another dinner or, alternatively, can actuate the enter pushbutton which enters the order for processing. Displays in the kitchen and other related aspects of the system are not directly related to the present invention and therefore will not be described.").

Regarding Claim 18, Kinebuchi teaches:

118. (New) An information management and synchronous communications system for generating and transmitting menus comprising: a. a central processing unit **(Column 7, Lines 33-38, "The POS system 10 is configured to comprise the host computer 20, an input-output terminal device 22 that functions as an input-output means, and a register 24 that keeps track of all money transactions. This POS system 10 uses an RF module 26 as a relay terminal to keep in contact with the order-taking terminal devices 40-1, 40-2 . . . on the tables 30 within the restaurant.")**, b. a data storage device connected to said central processing unit **(Column 7, Lines 33-38, "The POS system 10 is configured to comprise the host computer 20, an input-output terminal device 22 that functions as an input-output means, and a register 24 that keeps track of all money transactions. This POS system 10 uses an RF module 26 as a relay terminal to keep in contact with the order-taking terminal devices 40-1, 40-2 . . . on the tables 30 within the restaurant.")**, c. an operating system including a first graphical user interface, said operating system configured to interoperate with the

central processing unit, data storage device and application software **(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to function as a main piece of management equipment for order management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be transferred to the terminal devices 40.")**,

d. a first menu including menu categories and menu items, wherein said first menu is capable of being stored on said data storage device **(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to function as a main piece of management equipment for order management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be transferred to the terminal devices 40.")**, e.wherein the application software is configured to generate a second menu for transmission to either a wireless handheld computing device or web page, wherein the application software is configured to generate said second menu by utilizing parameters defining the categories and items from the first menu, modifiers from the modifier menu and sub-modifiers from the sub-modifier menu such that the information comprising the second menu is synchronized with analogous information comprising the first, modifier

and sub- modifier menus **(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to function as a main piece of management equipment for order management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be transferred to the terminal devices 40.")**, wherein the application software is further configured to format the second menu either for use and display on a second graphical user interface of the wireless handheld computing device or for use and display on a web page or series of web pages in conformity with any applicable display constraints of such second graphical user interface of the wireless handheld computing device or web page or series of web pages, and wherein the application software is also configured to format the second menu for user operations and display on the second graphical user interface of the wireless handheld computing device or web page or series of web pages such that the second menu as displayed on the second graphical user interface appears to a user to be substantially similar to the first menu as displayed on the first graphical user interface **(Showghi Column 4, Lines 49-58, "FIG. 2 illustrates a system that is based on the existing wireless telecommunications and Internet infrastructure. In this system conventional hand-held wireless communication devices, such as two-way pagers 22 (FIG. 3a), cell phones 24 (FIG. 3b) and PDAs 26 (FIG. 3c) would also be useful as remote ordering devices. Here orders would be received by a base transceiver station 28.**

These signals would be transmitted by service providers 30 on the internet 32 to the venue fulfillment center server 16 and order processing computers 18." And e.g. Column 4, Lines 24-29, "These special devices 10 are stored in a combination battery charger/programming unit, or docking station, which keeps the devices' batteries charged and provides the current menu of items offered for sale, which can be selectively presented for viewing on the device's display screen 20 or audibly via a speaker in the device."). In addition it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kinebuchi with the wireless devices of Showghi as both patents teach a system for ordering food, and the devices taught in Showghi would allow the system of Kinebuchi to be implemented in a portable computing environment. Further, Neither Kinebuchi nor Showghi explicitly teach:

e.)a modifier menu capable of being stored on said data storage device and f. a sub-modifier menu capable of being stored on said data storage device. However these limitations are taught by Chen: a modifier menu capable of being stored on said data storage device **(Column 8, Lines 21-44, "Beginning with FIG. 4A, the screen 30 shows graphic representations 46 in rectangular boxes for options on the root level of the menu tree, indicating that the user can order dinner, lunch, appetizer, refreshments or drink. The graphic representation labeled DINNER in FIG. 4A is shaded to indicate that it is selected by the user. The same convention is used in FIGS. 4B-4F. The representations labeled DELETE LAST and REPEAT LAST allow the user to change the last selected item, or to duplicate it. Moving now to FIG.**

4B, after the user selects the dinner option, the screen shows different types of entree, and steak is selected. FIGS. 4C & 4D show screen displays allowing the user to select the type of steak and how it is cooked. FIG. 4E shows that the user can choose between salad and French fries (FF), and the user chooses salad. After choosing salad the order for dinner is complete, and the screen display in FIG. 4F shows again representations 46 for the options on the root level. The waiter can then enter other selections such as a drink order or another dinner or, alternatively, can actuate the enter pushbutton which enters the order for processing. Displays in the kitchen and other related aspects of the system are not directly related to the present invention and therefore will not be described."), and f. a sub-modifier menu capable of being stored on said data storage device **(Column 8, Lines 21-44, "Beginning with FIG. 4A, the screen 30 shows graphic representations 46 in rectangular boxes for options on the root level of the menu tree, indicating that the user can order dinner, lunch, appetizer, refreshments or drink. The graphic representation labeled DINNER in FIG. 4A is shaded to indicate that it is selected by the user. The same convention is used in FIGS. 4B-4F. The representations labeled DELETE LAST and REPEAT LAST allow the user to change the last selected item, or to duplicate it. Moving now to FIG. 4B, after the user selects the dinner option, the screen shows different types of entree, and steak is selected. FIGS. 4C & 4D show screen displays allowing the user to select the type of steak and how it is cooked. FIG. 4E shows that the user can choose between salad and French fries (FF), and the user chooses salad. After choosing**

salad the order for dinner is complete, and the screen display in FIG. 4F shows again representations 46 for the options on the root level. The waiter can then enter other selections such as a drink order or another dinner or, alternatively, can actuate the enter pushbutton which enters the order for processing. Displays in the kitchen and other related aspects of the system are not directly related to the present invention and therefore will not be described."). Finally, it would have been obvious at the time of the invention to combine the teachings of Kinebuchi with the modifying menu's of Chen as Chen's modifier would allow a user to customize details of their order in a manner well-known in the restaurant industry, on the system of Kinebuchi.

Regarding Claims 119-121, Kinebuchi further teaches:

119. (New) The information management and synchronous communications system in accordance with claim 118, further configured to automatically generate the second menu from the first menu, the modifier menu and the sub-modifier menu **(column 9, Line 65 to column 10 Line 5, "The distinctive characteristic of this embodiment lies in the manner in which an operating program and image data that is stored in the receive data storage section 54 of the order-taking terminal device 40 is sent from the on-site POS system 10 when the order management system starts up. This ensures that the order management system can respond rapidly to variations such as changes and additions to the menu.")**.

120. (New) The information management and synchronous communications system in accordance with claim 118, wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs **(e.g. Column 7, Lines 24-32, "A first preferred embodiment of the present invention is shown in FIG. 1. This order management system controls orders at a restaurant located at a site such as an amusement park. Specifically, it is configured to comprise an on-site (i.e., installed at the restaurant) point-of-sales (POS) system 10 that functions as a main piece of management equipment for order management and a plurality of order-taking terminal devices 40-1, 40-2 . . . located on each of the tables 30-1, 30-2 . . . of the restaurant.")**.

121. (New) The information management and synchronous communications system in accordance with claim 118, further configured such that user selections from a second menu on either the wireless computing device or web page are automatically reflected in all other storage or display elements of the system **(e.g. Column 8, Lines 61-67, "When an order is placed from one of the order-taking terminal devices 40, the on-site POS system 10 temporarily stores details of that order in the memory 28 and also outputs a printout of the order from the input-output terminal device 22. If this restaurant is a fast-food restaurant, when an order is received, details of**

that order are processed at the register 24 to compute the bill, then those details are output as a printout from the input-output terminal device 22.").

3. Claims 122-127 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,912,743 Kinebuchi et al hereinafter Kinebuchi in view of US Patent Showghi et al hereinafter Showghi.

Regarding Claim 122, Kinebuchi teaches:

122. (New) An information management and synchronous communications system for use with wireless handheld computing devices and the internet comprising: a. a central database connected in said system and configured to store hospitality application information **(Column 7, Lines 33-38, "The POS system 10 is configured to comprise the host computer 20, an input-output terminal device 22 that functions as an input-output means, and a register 24 that keeps track of all money transactions. This POS system 10 uses an RF module 26 as a relay terminal to keep in contact with the order-taking terminal devices 40-1, 40-2 . . . on the tables 30 within the restaurant.")**, **(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to function as a main piece of management equipment for order management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be**

transferred to the terminal devices 40."), d. at least one web page connected in said system and configured to display said hospitality application information **(e.g. Column 7, Lines 45-53, "The host computer 20 is configured to comprise a memory 28. Programs that enable the on-site host computer 20 to function as a main piece of management equipment for order management are stored in this memory 28. In addition, an operating program and image data for order screens are stored in the memory 28 for the order-taking terminal devices 40. That is to say, this memory 28 also functions as storage means for data to be transferred to the terminal devices 40.")**, and e. a communications control module linking the central database, wireless handheld computing device, web server and web page, wherein the system is configured to synchronize the hospitality application information between the central database, at least one wireless handheld computing device, at least one web server and at least one web page such that substantially the same information comprising the hospitality application information is capable of being displayed on the wireless handheld computing device, at least one web page and other display screens of the synchronized system, such that the hospitality application information is synchronized between any connected users, wherein the communications control module is configured to act as an interface between the elements of the system and any applicable communications protocol and wherein the system is configured to format the hospitality application information for display on both the wireless handheld device and web page in conformity with any applicable display constraints of the wireless handheld computing device or web page **(column 9, Line 65 to column 10 Line 5, "The**

distinctive characteristic of this embodiment lies in the manner in which an operating program and image data that is stored in the receive data storage section 54 of the order-taking terminal device 40 is sent from the on-site POS system 10 when the order management system starts up. This ensures that the order management system can respond rapidly to variations such as changes and additions to the menu."). Kinebuchi does not explicitly teach: b. at least one wireless handheld computing device connected in said system and configured to display said hospitality application information, c. at least one web server connected in said system and configured to display said hospitality application information. However, this limitation it taught by Showghi: **(Showghi Column 4, Lines 49-58, "FIG. 2 illustrates a system that is based on the existing wireless telecommunications and Internet infrastructure. In this system conventional hand-held wireless communication devices, such as two-way pagers 22 (FIG. 3a), cell phones 24 (FIG. 3b) and PDAs 26 (FIG. 3c) would also be useful as remote ordering devices. Here orders would be received by a base transceiver station 28. These signals would be transmitted by service providers 30 on the internet 32 to the venue fulfillment center server 16 and order processing computers 18.")**. In addition it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kinebuchi with the wireless devices of Showghi as both patents teach a system for ordering food, and the devices taught in Showghi would allow the system of Kinebuchi to be implemented in a portable computing environment.

.Regarding Claims 124-127, Kinebuchi further teaches:

123. (New) The information management and synchronous communications system of claim 122, wherein the hospitality application information relates to at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs **(e.g. Column 7, Lines 24-32, "A first preferred embodiment of the present invention is shown in FIG. 1. This order management system controls orders at a restaurant located at a site such as an amusement park. Specifically, it is configured to comprise an on-site (i.e., installed at the restaurant) point-of-sales (POS) system 10 that functions as a main piece of management equipment for order management and a plurality of order-taking terminal devices 40-1, 40-2 . . . located on each of the tables 30-1, 30-2 . . . of the restaurant.")**.

124. (New) The information management and synchronous communications system of claim 122, further configured to automatically communicate selections made from a menu on at least one web page or at least one wireless computing device and transmitted over the internet to either the central database or at least one wireless handheld computing device or at least one web page **(e.g. Column 8, Lines 61-67, "When an order is placed from one of the order-taking terminal devices 40, the on-site POS system 10 temporarily stores details of that order in the memory 28 and also outputs a printout of the order from the input-output terminal device 22. If this restaurant is a fast-food restaurant, when an order is received, details of**

that order are processed at the register 24 to compute the bill, then those details are output as a printout from the input-output terminal device 22.").

125. (New) The information management and synchronous communications system of claim 122, further configured to automatically communicate selections made from a menu on at least one wireless handheld computing device to either the central database or the web server **(e.g. Column 8, Lines 61-67, "When an order is placed from one of the order-taking terminal devices 40, the on-site POS system 10 temporarily stores details of that order in the memory 28 and also outputs a printout of the order from the input-output terminal device 22. If this restaurant is a fast-food restaurant, when an order is received, details of that order are processed at the register 24 to compute the bill, then those details are output as a printout from the input-output terminal device 22.")**.

4.

126. (New) The information management and synchronous communications system in accordance with claim 122, wherein the hospitality information relates to payment processing **(Column 15, Lines 18-28, "In this way, the user orders the desired items of food (steps S212, S214, and S216). Once this sequence of orders is completed, the user touches the computation button 230 that is displayed in a manner such as that shown in FIG. 20. This causes a total charge screen such as that shown in FIG. 23A to appear on the display screen 42 (step S218). A written caption 290 indicating the total bill for the products that the user has ordered, an**

OK button 292, and a cancel button 294 are displayed on this final-total screen. The user then touches the OK button 292 to agree to the bill for this order, or the cancel button 294 to correct the order.").

127. (New) The information management and synchronous communications system in accordance with claim 122, wherein the wireless handheld computing device is a smart phone or other consumer wireless communications device **(Showghi Column 4, Lines 49-58, "FIG. 2 illustrates a system that is based on the existing wireless telecommunications and Internet infrastructure. In this system conventional hand-held wireless communication devices, such as two-way pagers 22 (FIG. 3a), cell phones 24 (FIG. 3b) and PDAs 26 (FIG. 3c) would also be useful as remote ordering devices. Here orders would be received by a base transceiver station 28. These signals would be transmitted by service providers 30 on the internet 32 to the venue fulfillment center server 16 and order processing computers 18.")**.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over over US Patent 5,912,743 Kinebuchi et al hereinafter Kinebuchi in view of US Patent Showghi et al hereinafter Showghi and further in view of US Patent 5,724,069 Chen et al hereinafter Chen. as applied to claim103 above, and further in view of US Patent 6,301,564 Halverson et al. hereinafter Halverson.

While none of the references above explicitly teach the limitations of Claim 111, these limitations are taught by Halverson:

111. (New) The information management and synchronous communications system in accordance with claim 103, further configured to include direct handwriting capture on the wireless device or conversion of the captured handwriting to text capabilities. **(Column 7, Line 60 – Column 8, Line 15, "FIG. 4 illustrates by flow chart the operation of a preferred human input interface component of application software 325, where patrons 305, employees 310 and management 315 provide input through to database 130. At a first step, data is input via one of a variety of preferred input devices at step 405, including keyboards, computer mice, touch screens, light pens, voice actuated software, magnetic strip readers, handwriting pads, optical character recognition (OCR) or OCR forms, laser data cards, or other various input mechanisms. An information and/or question survey is retrieved from database 130 by applications software 325 at step 410, the particular survey which will depend upon the identification of the class of human (patron, management, or employee) identified by an initial question or access code method. The survey may include a variety of answer types at step 415 depending upon the particular question, such as multiple choice, yes/no, comment, Excellent/Good/Fair/Poor, time or date, and true/false as shown at step 415, and through a suitable input device, the human will provide the desired input at step 405. Additional questions are asked, until the skills/preferences survey has been completed. At that time, the record will be saved to database 130 at step 420.").** In addition it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kinebuchi with the writing input

mechanism of Halverson as both teach menu/ordering management computer systems for restaurants and the handwriting input mechanism of Halverson would allow the users the Kinebuchi system to enter data in a way familiar to most potential users.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. BROPHY whose telephone number is . The examiner can normally be reached on Monday-Thursday 8:00AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJB

3/7/2008

/Wei Zhen/
Supervisory Patent Examiner, Art Unit 2191

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11112990	MCNALLY ET AL.
	Examiner	Art Unit
	MATTHEW J BROPHY	2191

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	03/07/2008								
	103	✓								
	104	✓								
	105	✓								
	106	✓								
	107	✓								
	108	✓								
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	123	✓								
	124	✓								
	125	✓								
	126	✓								
	127	✓								

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11112990	MCNALLY ET AL.
	Examiner	Art Unit
	MATTHEW J BROPHY	2191

SEARCHED			
Class	Subclass	Date	Examiner
715	810-845	3/7/2008	MJB

SEARCH NOTES		
Search Notes	Date	Examiner
See EAST search History	3/7/2008	MJB
inventor search in EDAN	3/7/2008	MJB

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

EAST Search History

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L16	16	(US-20030067494-$).did. or (US-5912743-$ or US-5781189-$ or US-5235509-$ or US-4638312-$ or US-6996777-$ or US-5991739-$ or US-7174308-$ or US-4415065-$ or US-6473739-$ or US-6920431-$ or US-4553222-$ or US-6125356-$ or US-5724069-$).did. or (GB-2196766-$ or WO-9820434-$).did.	US-PGPUB; USPAT; EPO	OR	ON	2008/03/07 13:57
L17	0	l16 and handwriting	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/07 13:58
L18	44	("20010047302" | "20010047302" | "20030067494" | "20030107588" | "20030067494" | "20030107588" | "5724069" | "5802526" | "5912743" | "5991739" | "5724069" | "5802526" | "5912743" | "5991739" | "6038545" | "6107944" | "6167255" | "6208976" | "6219696" | "6301564" | "6341316" | "6421717" | "6553412" | "6779042" | "6839744" | "6885261" | "6920431" | "6973437" | "6038545" | "6107944" | "6167255" | "6208976" | "6219696" | "6301564" | "6341316" | "6421717" | "6553412" | "6779042" | "6839744" | "6865261" | "6920431" | "6973437" | "7000032" | "7000032").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/07 13:58
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S1	1	11/112990.app.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 15:20

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S3	4137	(715/810-845).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2008/03/05 17:00
S4	0	("l3and@ad<=19990921").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2008/03/05 17:01
S5	1740	S3 and @ad<="19990921"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 17:01
S6	2472	S3 and @ad<="20011101"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 17:01
S7	4137	(715/810-845).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2008/03/05 18:16
S8	1740	S7 and @ad<="19990921"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 18:16
S9	98	S8 and (PDA or palm or handheld)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 18:16

S10	8	S8 and (PDA or palm or handheld).ab.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 18:16
S11	4137	(715/810-845).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2008/03/05 23:44
S12	1740	S11 and @ad<="19990921"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 23:44
S13	0	S12 and resturant same menu	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/05 23:55
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S17	12	("5724069" | "5802526" | "5912734" | "5991739" | "6107944").PN. OR ("6384850").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2008/03/06 00:09
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S65	2	S64 and chen.in.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2008/03/06 16:07

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Courtesy Reminder for
Application Serial No: 11/112,990

Attorney Docket No: 3125-4003US1
Customer Number: 27123
Date of Electronic Notification: 03/28/2008

This is a courtesy reminder that new correspondence is available for this application. The official date of notification of the outgoing correspondence will be indicated on the form PTOL-90 accompanying the correspondence.

An email notification regarding the correspondence was sent to the following email address(es) associated with your customer number:

PTOPatentCommunications@Morganfinnegan.com
Shopkins@Morganfinnegan.com
jmedina@Morganfinnegan.com

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To view your correspondence online or update your email addresses, please visit us anytime at **https://sportal.uspto.gov/secure/myportal/privatepair.** If you have any questions, please email the Electronic Business Center (EBC) at EBC@uspto.gov or call 1-866-217-9197.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/112,990	04/22/2005	Keith R. McNally	3125-4003US1	7098

27123 7590 04/30/2008
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER	
BROPHY, MATTHEW J	
ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
04/30/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com
Shopkins@Morganfinnegan.com
jmedina@Morganfinnegan.com

Interview Summary	Application No.	Applicant(s)	
	11/112,990	MCNALLY ET AL.	
	Examiner	Art Unit	
	MATTHEW J. BROPHY	2191	

All participants (applicant, applicant's representative, PTO personnel):

(1) *MATTHEW J. BROPHY*. (3)*Philip Wang*.

(2) *John Osborne*. (4)_____.

Date of Interview: *4/22/2008*.

Type: a)☐ Telephonic b)☐ Video Conference
c)☒ Personal [copy given to: 1)☐ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☐ No.
If Yes, brief description: _____.

Claim(s) discussed: *103-127*.

Identification of prior art discussed: *US Patent 5,912,743 Kinebuchi, US Patent 6,473,739 Showghi*.

Agreement with respect to the claims f)☐ was reached. g)☐ was not reached. h)☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: *Applicant described the difference between the present invention and prior art. Examiners suggested several possible amendments including hospitality, real-time synchronization as well as the clarifying of both the last limitation of the independent claim and the clarification of "real-time". Examiner agreed to consider applicants arguments and amendments fully when submitted and contact the applicant if allowable subject matter is found*.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Wei Y. Zhen/
Examiner's signature, if required

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally, et al.	Group Art Unit:	2191
Filed:	April 22, 2005	Examiner:	Brophy, Matthew
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

REPLY AND AMENDMENT UNDER 37 C.F.R. 1.111

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

Sir:

In response to the pending non-Final Office Action dated March 28, 2008, and the proposed claim amendments responding to the expressed concerns from the Examiner Interview on April 22, 2008, which are incorporated in the present Amendment, reconsideration and allowance of the pending revised claims of the above-identified application is respectfully requested.

Please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper; and

Remarks begin on page 10 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. Claims 1-102 were cancelled without prejudice or disclaimer by previous amendments. Claims 103-127 are pending in the application. By the present amendment, Claims 103-105, 108, 110, 114, 117-119, 121, 122, 124 and 125 are amended. No new matter has been added by the present amendment.

1-102. (Canceled).

103. (Currently amended) An information management and synchronous communications system for generating and transmitting hospitality menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a first graphical user interface,

d. a ~~first~~ master menu including menu categories, menu items, modifiers and sub-modifiers, wherein said ~~first~~ master menu is capable of being stored on said data storage device pursuant to a master menu file structure and said ~~first~~ master menu is capable of being displayed in at least one window of said first graphical user interface, and

e. application software configured to generate a second menu for transmission to ~~either~~ a wireless handheld computing device ~~or web page~~,

wherein the application software is configured to generate said second menu by utilizing parameters from the master menu file structure defining the categories, items, modifiers and sub-modifiers ~~from~~ of the ~~first~~ master menu such that the information comprising the second menu is synchronized in real time with analogous information comprising the ~~first~~ master menu, wherein

the application software is further configured to format the second menu such that the second menu may include additional parameters to facilitate user operations with and display of the second menu on the display screen of a second graphical user interface integral with the wireless handheld computing device, said second menu and any additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics of the wireless handheld computing device screen ~~or web page or series of web pages~~.

104. (Currently amended) The information management and synchronous communications system in accordance with claim 103, further configured to automatically generate and transmit the second menu from the master ~~first~~ menu.

105. (Currently amended) The information management and synchronous communications system in accordance with claim 104, further configured to automatically generate and transmit the second menu from the master ~~first~~ menu in response to at least one of a predetermined time, or the occurrence of an event or a change in the master ~~first~~ menu.

106. (Previously presented) The information management and synchronous communications system in accordance with claim 103 wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

107. (Previously presented) The information management and synchronous communications system in accordance with claim 103 further configured to transmit user selections from the second menu to a receiving computer by wireless link or via the internet.

108. (Currently amended) The information management and synchronous

communications system in accordance with claim 103, further configured such that user selections from a second menu on ~~either~~ the wireless computing device ~~or web page~~ are automatically reflected in all other storage or display elements of the system.

109. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to automatically format the second menu for display as cascaded sets of linked graphical user interface screens appropriate for the display characteristics of the wireless computing device.

110. (Currently amended) The information management and synchronous communications systems in accordance with claim 103 in which the modifiers and sub-modifiers in either the master ~~first~~ or second menus may be further configured to be either required or not required.

111. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to include direct handwriting capture on the wireless device or conversion of the captured handwriting to text capabilities.

112. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to include voice capture or conversion to text capabilities.

113. (Previously presented) The information management and synchronous communications system in accordance with claim 103 wherein the second menu relates to ordering and in which the order can be associated with a particular customer or customers seated at a particular table or area.

114. (Currently amended) The information management and synchronous communications system in accordance with claim 103 in which the wireless handheld computing device is configured to facilitate selection of a printer to print receipts, checks or orders directly from the user interface of the wireless handheld computing device to the printer in closest proximity to the wireless handheld computing device at a given time.

115. (Previously presented) The information management and synchronous communications system in accordance with claim 103 in which the wireless computing device is a smart phone or other consumer wireless communications device.

116. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to facilitate payment processing from the wireless handheld computing device.

117. (Currently amended) The information management and synchronous communications system in accordance with claim 103, further configured such that both the master ~~first~~ and the generated second menus reflect a billing summary to facilitate processing of payments for an order on the wireless handheld computing device.

118. (Currently amended) An information management and synchronous communications system for generating and transmitting hospitality menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a first graphical user interface, said operating system configured to interoperate with the central processing unit, the data storage device and application software,

d. a master ~~first~~ menu including menu categories and menu items, wherein said master ~~first~~ menu is capable of being stored on said data storage device,

e. a modifier menu capable of being stored on said data storage device, and

f. a sub-modifier menu capable of being stored on said data storage device,

wherein the application software is configured to generate a second menu for transmission to ~~either~~ a wireless handheld computing device ~~or web page~~, wherein the application software is configured to generate said second menu by utilizing parameters from the master menu file structure defining the categories and items of ~~from~~ the master ~~first~~ menu, modifiers from the modifier menu and sub-modifiers from the sub-modifier menu such that the information comprising the second menu is synchronized in real time with analogous information comprising the master ~~first~~, modifier and sub-modifier menus,

wherein the application software is further configured to format the second menu ~~either~~ for use and display on the display screen of a second graphical user interface ~~of~~ integral with the wireless handheld computing device ~~or for use and display on a web page or series of web pages~~ in conformity with any applicable display constraints of such second graphical user interface of the wireless handheld computing device ~~or web page or series of web pages~~, and

wherein the application software is also configured to format the second menu for user operations and display on the display screen of the second graphical user interface of the wireless handheld computing device ~~or web page or series of web pages~~ such that the second menu as displayed on the second graphical user interface appears to a user to be substantially similar to the first menu as displayed on the first graphical user interface.

119. (Currently amended) The information management and synchronous communications system in accordance with claim 118, further configured to automatically generate the second menu from the master ~~first~~ menu, the modifier menu and the sub-modifier menu.

120. (Previously presented) The information management and synchronous communications system in accordance with claim 118, wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

121. (Currently amended) The information management and synchronous communications system in accordance with claim 118, further configured such that user selections from a second menu on ~~either~~ the wireless computing device ~~or web page~~ are automatically reflected in all other storage or display elements of the system.

122. (Currently amended) An information management and synchronous communications system for use with wireless handheld computing devices and the internet comprising:

a. a master ~~central~~ database connected in said system and configured to store hospitality application information pursuant to a master database file structure,

b. at least one wireless handheld computing device connected in said system and configured to display said hospitality application information,

c. at least one web server connected in said system and configured to display said hospitality application information,

d. at least one web page connected in said system and configured to display said hospitality application information, and

e. a communications control module linking the master ~~central~~ database, wireless handheld computing device, web server and web page,

wherein the system is configured to utilize parameters from the master database file structure to synchronize the hospitality application information in real time between the master ~~central~~ database, at least one wireless handheld computing device, at least one web server and at least one web page such that substantially the same information comprising the hospitality application information is capable of being displayed on the wireless handheld computing device, at least one web page and other display screens of the synchronized system, such that the hospitality application information is synchronized between any connected users, wherein the communications control module is configured to act as an interface between the elements of the system and any applicable communications protocol and wherein the system is configured to format the hospitality application information for display on both the wireless handheld device and web page in conformity with any applicable display constraints of the wireless handheld computing device or web page.

123. (Previously presented) The information management and synchronous communications system of claim 122, wherein the hospitality application information relates to at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

124. (Currently amended) The information management and synchronous communications system of claim 122, further configured to automatically communicate

selections made from a menu on at least one web page or at least one wireless computing device and transmitted over the internet to either the master ~~central~~ database or at least one wireless handheld computing device or at least one web page.

125. (Currently amended) The information management and synchronous communications system of claim 122, further configured to automatically communicate selections made from a menu on at least one wireless handheld computing device to either the master ~~central~~ database or the web server.

126. (Previously presented) The information management and synchronous communications system in accordance with claim 122, wherein the hospitality information relates to payment processing.

127. (Previously presented) The information management and synchronous communications system in accordance with claim 122, wherein the wireless handheld computing device is a smart phone or other consumer wireless communications device.

REMARKS

Claims 1-102 were previously cancelled without prejudice or disclaimer by preliminary amendments filed in this application on April 22, 2005 and September 25, 2007. Claims 103-127 are now pending in the application. By the present amendment, Claims 103-105, 108, 110, 114, 117-119, 121, 122, 124 and 125 are amended. No new matter has been added by this amendment.

In a non-Final Office Action dated March 28, 2008, the Examiner entered obviousness rejections against all of the pending claims based on various combinations of references. Claims 103-110 and 112-121 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kinebuchi U.S. Pat. 5,912,743 in view of Showghi U.S. Patent No. 6,473,739 and further in view of Chen U.S. Patent No. 5,724,069. Claims 122-127 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kinebuchi U.S. Patent No. 5,912,743 in view of Showghi U.S. Patent No. 6,473,739. Claim 111 was rejected as being unpatentable over Kinebuchi U.S. Patent No. 5,912,743 in view of Showghi U.S. Patent No. 6,473,739 and further in view of Chen U.S. Patent No. 5,724,069 as applied to claim 103 and further in view of Halverson U.S. Patent No. 6,301,564.

On April 22, 2008, the Applicant's attorney attended an Interview with Examiners Matthew Brophy and Philip Wang. The Applicants and their attorney wish to thank the Examiners for their courtesy in the Interview. The Examiners suggested several claim amendments at the Interview which are incorporated in the present Amendment. Independent claims 103, 118 and 122 have been amended to incorporate each of the Examiners' suggestions.

Dependent claims 104, 105, 108, 110, 117, 119, 121, 124 and 125 have been amended to conform to the amendments to the independent claims. Dependent claim 114 has also been amended to more clearly recite the claimed subject matter.

Specifically, independent claims 103 and 118 have been amended to recite that the claimed menus are limited to hospitality menus, the menu from which a second menu is generated is a master menu, the second menu is generated utilizing parameters from the master menu file structure, the second menu and master menu are synchronized in real time and the second menu is formatted for display on the display screen of a second graphical user interface ("GUI") integral with the wireless handheld computing device. Claims 103 and 118 have been further amended to delete web page menu generation recitations. Independent claim 122 has been amended to recite that the database is a master database, the system is configured to utilize parameters from the master database file structure to synchronize hospitality application information in real time between the master database, at least one handheld computing device, at least one web server and at least one web page. These amendments are made to advance prosecution of the application but Applicants do not acquiesce to the characterizations of the references made in the Office Action. Following are the arguments and distinctions over the cited references made by the Applicants' attorney at the Interview with respect to the independent claims. Also provided below are distinctions over a number of the rejections of dependent claims, although all of the dependent claims are believed to be in condition for allowance based on the arguments and amendments made with respect to the independent claims.

As communicated by the Applicants' attorney at the April 22, 2008 Interview, the Applicants believe that the Examiner applied a number of disparate references for which no

basis, suggestion or reason has been shown for combination as urged by the Examiner to render obvious the invention as claimed. As discussed at the Interview and fully explained below, the applied references are not pertinent to Applicants' invention as claimed and/or actually teach away from the invention as claimed. Moreover, the knowledge of a person skilled in the art at the time of the invention would not have sufficed to fill the large gaps in the reference teachings or otherwise provide a reason to combine the references in the manner suggested by the Examiner. Moreover, the present claim amendments extend the gaps between the reference teachings and the invention as claimed even further.

The present application and claims resulted from the first system to enable synchronization of information between wired, wireless and web-based hospitality systems for, among other things, generation of computerized menus, reservations etc. for environments which utilize computer equipment with nonstandard or different graphical formats, display sizes or applications. Systems known at the time involved different sets of GUI-based information or data on different platforms (e.g., wired, wireless, internet) and the different platforms had very different user display characteristics. The inability of one platform to readily use and display the information originated from another platform was a huge impediment to a fully-integrated hospitality system involving many different fixed, web and wireless system components. The inventors conceived a system which ensured that all of the disparate components of the system could process, display and/or interact with the same information or data, while synchronously maintaining data consistency across the entire system. Previous hardware-oriented type efforts directed to mobile hospitality applications such as ordering focused on either increasing the processing and storage power of a mobile wireless device to make it capable of storing and

executing an entire POS program, or were otherwise limited to very minimal functionality without real time synchronization. However, at the time of the conception of the present invention, a hardware device approach to achieving full integration/synchronization was impractical within size, weight, cost, battery power, memory, wireless data transmission rate constraints and other usability reasons regarding the wireless devices known at the time. Moreover, the inventors realized that even a "complete" remote POS device would not solve the problem of multiple, unsynchronized sets of information or data on different platforms/displays, nor could it simultaneously address the unique display requirements for internet web pages and thus would not achieve full integration of all information across all connected system components as is encompassed by various embodiments of the invention as presently claimed.

The inventors' breakthrough was to leverage GUI-based information or data (e.g. parameters defining modifiers/sub-modifiers and other parameters) from a master or central database for the synchronous generation and transmission to or from other components of the system, and which was displayable dependent on the particular display characteristics of each system node or device type. The result was overall consistency of data across all connected system nodes at any given time. Nothing in the prior art taught or suggested such an approach, and in fact the hardware-based prior approaches taught away from the Applicants' solution because, inter alia, these approaches did not synchronously receive information for display from a database remote from the handheld and because the information displayed on the handheld, PDA or smart phone (e.g., a second menu) was not synchronously leveraged in real time from the GUI-based information capable of being displayed on, e.g., a standard PC GUI (e.g., a master menu).

The inventors uniquely understood that to achieve full integration, a synchronous system would have to be capable of accommodating different display size and format requirements and be capable of converting the data stored on the central database, leveraging the data parameters from the central database and generating and transmitting data to each individual system node in a format that could be displayable, useful and actionable on that particular device. Such usability is a function of aspects unique to the hospitality market including, for example, the need for linked cascading, custom menus with modifiers, sub-modifiers and other specialized user interface requirements for a particular hospitality environment. The inventors likewise appreciated that user inputs from these nodes would also have to be formatted and recognized by the system to be the same as if they had been entered into the system from any other node in the system – otherwise the system would be dealing with inconsistent information and this would not be an integrated, synchronized system. This is what the inventors conceived nearly 10 years ago – well prior to any other independent recognition or use of the claimed invention. The synchronization aspect of the claimed invention provides patentable distinctiveness vis-à-vis each of the cited references in and of itself. In addition, the present claims are distinguishable over the cited references on numerous other bases as detailed below.

I. THE SHOWGHI REFERENCE SHOULD BE WITHDRAWN

It was admitted in the Office Action that the Kinebuchi reference does not teach the limitation of independent claim 103 requiring that "said additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display

characteristics of the wireless handheld computing device or web page or series of web pages."[1]

The Examiner instead relied on the following passages from Showghi as purportedly teaching this limitation:

> FIG. 2 illustrates a system that is based on the existing wireless telecommunications and Internet infrastructure. In this system conventional hand-held wireless communication devices, such as two-way pagers 22 (FIG. 3a), cell phones 24 (FIG. 3b) and PDAs 26 (FIG. 3c) would also be useful as remote ordering devices. Here orders would be received by a base transceiver station 28. These signals would be transmitted by service providers 30 on the internet 32 to the venue fulfillment center server 16 and order processing computers 18.

Showghi, Col. 4, lines 49-58.

> These special devices 10 are stored in a combination battery charger/programming unit, or docking station, which keeps the devices' batteries charged and provides the current menu of items offered for sale, which can be selectively presented for viewing on the device's display screen 20 or audibly via a speaker in the device.

Id. at Col 4, lines 24-29. These same passages from Showghi are also asserted to teach a similar limitation in independent Claim 118.[2] The first cited passage from Showghi was also asserted by the Examiner to teach the handheld and web display limitations of independent Claim 122.

A. The Cited Passages From Showghi Are Not Prior Art To The Present Application And Claims

The rejections based on Showghi must be withdrawn because the first of the cited passages from Showghi (col. 4, lines 49-58) is not prior art to the present application and claims.

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[1] Claim 103 is presently amended to recite "said second menu and any additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics of the wireless handheld computing device screen."

[2] Claim 118 is presently amended to recite, inter alia, "in conformity with any applicable display constraints of such second graphical user interface of the wireless handheld computing device . . ."

The quoted passage from Showghi appeared for the first time in a PCT filing dated April 27, 2000, well after the September 21, 1999 priority date of the present application and claims. The Showghi provisional application filed April 27, 1999 did not disclose nor recognize, among other things, a database of any kind, nor synchronization, nor cell/smart phones, nor specialized display constraints, nor the internet. The first section (col. 4, lines 49-58) cited by the Examiner is not in the Showghi provisional application nor is there any disclosure of conventional patron-provided handhelds in the Showghi provisional application.

Moreover, the second passage cited by the Examiner clearly shows that the disclosure of the Showghi provisional application was limited to special purpose devices which were programmed in a docking station and not updated synchronously from a central database:

> . . . combination battery charger/programming unit, or docking station, which keeps the devices' batteries charged and provides the current menu . . .

Col. 4, lines 24-29. A very similar passage appeared in the Showghi provisional application (p. 5, lines 10-12), as well as the following statement:

> . . . programming and issue terminals 46 to manage customer activities at the kiosk 12, and to enable menu updating for the remote terminals 10 via docking stations 14.

Showghi Provisional App. Ser. No. 60/131,119, p. 7, lines 22-24 (emphasis added). The Showghi provisional application therefore clearly did not teach, inter alia, synchronous communication of hospitality information including, for example, synchronous menu generation and transmission, and in fact taught away from the invention as claimed because it contemplated menu updating only via docking stations and it envisioned no provisions for these updates to generate menus unique to the specific display characteristics of various linked devices.

The Showghi provisional application essentially describes a hardware device approach for associating a particular mobile device to be provided to spectators with a particular seat within a sports stadium so that food can be ordered remotely and delivered to the correct location. The Showghi provisional application thus does not describe nor suggest the use of consumer mobile/smart devices, the internet, generating a second menu from a master menu or the need to format information or data for display on devices with specialized display constraints as recited in various of the present claims; nor does the Showghi provisional say or imply anything about a synchronized system as presently claimed. Also, the Showghi provisional application makes no mention of an integrated hospitality system, e.g. reservations, waitlisting, frequency, etc. as are encompassed by various of the present claims, including claims 106, 120, and 122-127. The Applicants therefore believe that the rejections based on the Showghi patent as regards each of the present claims (claims 103-127) must be withdrawn.

B. The Showghi Patent In Any Event Would Not Meet The Claim Limitations Even If It Were Available As Prior Art

The Examiner appears to have read the Showghi patent as disclosing a "result" of a part of the Applicants' inventive solution, i.e., an integrated, synchronized menu and ordering system. However, as discussed above, the Showghi patent is not prior art to the present application and claims because the portions of Showghi relied on by the Examiner are not entitled to a priority date prior to the priority date of the present application. In any event, the Examiner's apparent reading of the Showghi patent is unjustified even with the later-added material (which was not included in the Showghi provisional application) because the Showghi patent does not teach, explain, refer to nor appreciate "how" that result might be achieved.

Showghi stated only that "cell phones and PDA's would be 'useful' as remote ordering devices" -- but this was merely an observation of a possible use and not a description of the presently-claimed invention.[3] Showghi clearly failed to appreciate how the remote ordering solution of the presently-claimed invention was actually accomplished, i.e., by incorporation of a central/master database which drives the other system GUI based operator interfaces through leveraging of the parameters in the central database to achieve synchronization of information or data across connected nodes of the system.

Moreover, Showghi failed to appreciate the need for menu conversions in a synchronous system of disparate connected devices having different display characteristics. At first glance, and without full appreciation for a principal tenet of the overall invention, it is easy to fail to see that "how" the result is achieved is central to the invention and is, in fact not described by Showghi in any way, even in Showghi's later-filed submission. Also, Showghi makes no mention of reservations, waitlisting, customer frequency etc. (which are encompassed by independent claim 122 and recited by several dependent claims) even in the later-filed PCT application, which would have had no relevancy in the Showghi system anyway -- which was limited to ordering applications in sports stadiums.

[3] It is worth noting that the Showghi PCT application (the first filing of the passages relied on by the Examiner) was filed well past the occurrence of a substantial amount of publicity for the Applicant's inventive solution during 1999 and early 2000. The assignee of the present invention achieved widespread acclaim during this time period for its embodying products. The assignee and its products were featured in more than 50 different trade publications, were on television, displayed at six major trade shows, were adopted by many hospitality industry leaders and entered into a highly-publicized strategic business arrangement with Microsoft – all well prior to Showghi's filing of the disclosure relied on by the Examiner to reject the claims of the present application.

II. THE REJECTIONS BASED ON KINEBUCHI SHOULD BE WITHDRAWN

Kinebuchi was directed to provision of terminals at customers' tables to eliminate the need for restaurant wait staff to take orders. E.g., Kinebuchi, col. 1, lines 25-37. The presently-claimed invention is directed to, inter alia, facilitation of mobile ordering by leveraging of GUI-based information or data from a master/central database for synchronous generation, transmission and display (as appropriate) on various nodes of a hospitality system. Kinebuchi's objective was thus to extend a fixed POS system to the customer equipped with similarly configured displays, but Kinebuchi did not envision integration of a fixed POS system with a mobile, wireless system including devices having different display/size characteristics in the manner claimed.

Moreover, Kinebuchi clearly does not describe a "synchronized" system as presently claimed; in fact Kinebuchi's teaching is admittedly "asynchronous." For example, Kinebuchi states:

> It is preferable that this transfer and writing of the image data and operating program is performed during a time band in which the terminal is not usually in use.

Col. 5, lines 18-20. Conversely, the present inventors recognized the need for the system to be connected and synchronized in a manner that Kinebuchi did not even remotely contemplate. In fact, Kinebuchi did not use the word "synchronize" even a single time and did not foresee the importance of synchronization as presently claimed, let alone how to achieve it.

The rejections based on Kinebuchi and Showghi are apparently based on the inference that simply because these references show a "network" which allows different system nodes to connect, that somehow this connection equated to synchronization. But the network connections in the references were simply "point-to-point" communications which do not equate

to synchronization, and most certainly do not equate to nor suggest the synchronization of hospitality information in real-time on disparate nodes and device types having very different display and user interface characteristics. Kinebuchi merely deals with point-to-point non-synchronous communication of the same menu to additional components of a system. There is no appreciation in Kinebuchi of synchronous generation and transmission of a second menu from a master menu, by leveraging the parameters in the database as presently claimed.

Simply updating a database once at the start of each day as disclosed by Kinebuchi is not a description nor suggestion of the claimed connected and synchronized system. In fact, Kinebuchi's description of data transmission at "start up" is an admission by Kinebuchi that its system was not synchronized when connected during operation due to the very fact that the "start up" process was necessary in the first place. See, e.g., Kinebuchi, col. 7, lines 58-62; col. 8, lines 61-63; col. 9, line 65 - col. 10, line 2; col. 11, line 54 – col. 12, line 5. Kinebuchi thus 'teaches away' from the real time synchronization of the invention as presently claimed. As such, Kinebuchi's disclosure of updating menus only at "start up" has overwhelming shortcomings which were solved by the presently-claimed invention. There is no reference to synchronization of any sort anywhere in the disclosure of Kinebuchi.

Moreover, Kinebuchi's focus was to provide "visual information" which had previously required paper menus. Kinebuchi refers to "an order taking terminal device" but does not refer to anything specific to address the unique challenges of formatting non-standard user interfaces for the small display screens of mobile handheld devices nor the internet/web. Kinebuchi thus does not teach or suggest the requirement of independent Claim 103 that "the application software is further configured to format the second menu such that the second menu

may include additional parameters to facilitate user operations with and display of the second menu on the display screen of a second graphical user interface integral with the wireless handheld computing device, said second menu and any additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics of the wireless handheld computing device screen."

Kinebuchi also does not teach or suggest the requirement of independent Claim 118 that "the application software is further configured to format the second menu for use and display on the display screen of a second graphical user interface integral with the wireless handheld computing device in conformity with any applicable display constraints of such second graphical user interface of the wireless handheld computing device." Since Kinebuchi never even contemplated PDAs or smart phones, it would have been impossible for him to have even appreciated the very problem that the present invention solves, and thus Kinebuchi certainly does not show nor suggest the inventive solution as recited in independent claims 103 and 118.

Similarly, Kinebuchi does not teach or suggest the requirement of independent Claim 122 that "the system is configured to format the hospitality application information for display on both the wireless handheld device and web page in conformity with any applicable display constraints of the wireless handheld computing device or web page." Since Kinebuchi never even contemplated PDAs, smart phones or web pages, it would have been impossible for him to have even appreciated the very problem that the present invention solves, and thus Kinebuchi certainly does not show nor suggest the inventive solution as recited in independent claim 122.

Nor does Kinebuchi ever mention reservations, waitlisting, customer frequency, etc as encompassed by various of the present claims, including claims 106, 120 and 122-127. Kinebuchi simply describes extending the same GUI from a fixed POS system to more displays of the same size/orientation/layout and that is not the subject matter of the present claims nor does Kinebuchi suggest the presently-claimed invention. Claims 103 and 118 are directed to leveraging data that is displayable on one GUI for display on a second GUI, and synchronizing the information between the separate nodes even though the display constraints and parameters of the different GUIs are very different.

III. THE REJECTIONS BASED ON CHEN SHOULD BE WITHDRAWN

The Chen reference describes a mobile hardware terminal. Chen does not describe a "system concept" of any kind, let alone the real-time synchronized system as claimed. While the Chen reference disclosure appears to be targeted to servers in a restaurant, it never describes or explains in any way how it would actually work within a restaurant. Not only does it not mention a database in any way, it never even mentions a POS system.

Chen describes menus and how they would operate on this hardware device. However, Chen never mentions how the menu data ever gets into the device, where it comes from, nor how or where the orders from the mobile terminal would be input into the actual restaurant system. And Chen makes no mention of formatting menu data even for its own user interface. Chen also never even mentions wireless devices or the internet.

The Chen reference is thus entirely inapplicable to the invention claimed in independent claims 103 and 118 as presently amended, i.e., a system for synchronous generation and transmission of menu information between a master/central database and a wireless handheld

device. And none of the other cited references provide the claimed aspects missing from Chen because none of the cited references is directed to synchronous generation and transmission of menu information between a central database and a wireless handheld device having unique display characteristics.

Further, Chen fails to even recognize the additional characteristics of an overall synchronized hospitality system including such additional applications including reservations, wait-listing, frequency etc.

IV. INDEPENDENT CLAIM 118 CONTAINS A LIMITATION NOT FOUND IN INDEPENDENT CLAIM 103

The Examiner rejected independent claim 118 on the same bases as independent claim 103. However, claim 118 adds the explicit requirement that the second menu (which is generated from the master menu but is different) appears to a user to be substantially similar to the master menu as displayed on the first GUI. This adds the claim requirement that the logic in the system needs to not only format the second menu so that it is displayable on the other display means but that the system logic needs to produce the second menu so that it is as consistent in user interface as possible with the master menu. This aspect of the invention is applicable to minimizing waiter/server training in restaurant POS environments since some staff use the fixed POS systems and some use handhelds but all staff members need to be able to easily and seamlessly move from one user interface to the other. None of the applied references taught or suggested this element or provided any motivation to add this element to their teachings, nor was there any reason for a person skilled in the art to supply the missing element. Claim 118 is thus believed allowable on this additional basis vis-à-vis claim 103.

V. INDEPENDENT CLAIM 122 CONTAINS LIMITATIONS NOT FOUND IN INDEPENDENT CLAIMS 103 OR 118

The Examiner rejected independent claim 122 on similar bases as the rejections of independent claims 103 and 118. However, claim 122 adds the explicit requirement that both handheld and web system elements are connected and synchronized in the same system at the same time through a communications control module, whereas claims 103 and 118, as amended, are directed to synchronization of information displayed on handhelds with a master/central database. None of the applied references teach or suggest these elements or provide any reason or motivation to add these additional elements to their teachings, nor was there any reason for a person skilled in the art to supply the missing elements. Moreover, separate references cannot properly be combined to teach this claimed aspect because, by definition, separate references cannot teach nor suggest the connected and synchronized system comprised of multiple elements which the inventors conceived nearly ten years ago. The nature of the present invention was to maintain real-time consistency of information across disparate nodes with very different display characteristics and communications protocols in a connected system. The Examiner has pointed to no suggestion, motivation or reason to combine the cited references and, in fact, the separate references teach away from the present invention by virtue of the total lack of synchronization in any of the references. Claim 122 is thus believed allowable on this additional basis vis-à-vis claims 103 and 118.

VI. NUMEROUS DEPENDENT CLAIMS ARE INDEPENDENTLY PATENTABLE OVER THE CITED REFERENCES

The dependent claims are believed to be allowable on the same bases as independent claims 103, 118 and 122 as discussed above. Applicants also provide the following additional bases for separate patentability of various dependent claims.

The Examiner cited Kinebuchi as teaching the requirement of claims 104, 105 and 119 that the second menu is automatically generated and transmitted from the first (master) menu. However, the cited passage from Kinebuchi (Col. 9 line 654 to col. 10, line 5) teaches only transmission at start-up done manually at the start of each day. Kinebuchi thus does not teach that the menu is generated automatically. In fact, Kinebuchi (col. 2, lines 5-40) describes in detail how the user must manually view and decide what data is sent out to the order-taking terminals, thus acknowledging that he did not have the concept or the means to do this automatically. Moreover, Kinebuchi merely deals with point-to-point non-synchronous communication of the same menu to additional components of a system. There is no appreciation in Kinebuchi of automatic and synchronous generation and transmission of a second menu from a master menu as presently claimed.

The Examiner cited Kinebuchi as teaching the recitation of claim 107 that the system is further configured to transmit user selections from the second menu to a receiving computer via wireless link or via the internet. However, the cited passage from Kinebuchi (col. 8, lines 61-67) in fact makes no mention of transmitting selections from a second menu to a receiving computer by either wireless link or the internet, nor is there any such teaching or suggestion of such transmission anywhere in Kinebuchi. Moreover, there is no teaching of a

second menu in Kinebuchi or any other cited reference. Kinebuchi merely deals with point-to-point non-synchronous communication of the same menu to additional components of a system. There is no appreciation in Kinebuchi of synchronous generation and transmission of a second menu from a master menu as presently claimed. This rejection should therefore also be withdrawn.

The Examiner cited Showghi as teaching the recitation of claim 109 that the system is further configured to automatically format the second menu for display as cascaded sets of linked graphical user interface screens appropriate for the display characteristics of the wireless computing device. However, the cited passage from Showghi (col. 5, lines 44-47) is not available as prior art to the present application and claims as discussed above. Moreover, there is no teaching in Showghi of a second menu generated from a master menu and synchronously transmitted to a wireless device nor, as previously stated, "how" this would be done even if it had been contemplated by Showghi (which it was not). This rejection should therefore be withdrawn.

Regarding claim 110, the Chen reference relied on by the Examiner does not even mention "required" or "non required" modifiers as claimed, let alone provision of such features in the presently-claimed synchronous communications system directed to generation of a second menu from a master menu and transmission to a wireless handheld computing device and the implications of these additional claim limitations with respect to display on mobile devices. This rejection should therefore be withdrawn.

In rejecting dependent claim 111, the Examiner applied Halverson as teaching handwriting capture on a wireless device or conversion of captured handwriting to text.

Halverson describes a survey system for conducting guest satisfaction surveys in restaurants. Halverson's system is directed to determining how consumers decide 'what' and 'where' they are going to eat, e.g., 'Italian' tonight. It focuses on the desired ambience for a restaurant and such esoteric considerations. The Halverson disclosure even goes so far as to include drawings and descriptions of the various costumes employees would wear and the music to be playing to create the desired overall ambiance. Nothing could be farther from the presently-claimed invention. The following passage from Halverson illuminates the purpose for the disclosed system:

> In a first manifestation, the invention is an apparatus for polling individuals regarding their sensory preferences pertaining to dining.

Col. 4, lines 24-26. Halverson has nothing to do with generating menus from a POS database/GUI for use on, e.g., wireless handhelds and other platforms having specialized display constraints in a synchronous communications environment as encompassed by the present invention and recited in the present claims. There is also no mention in Halverson of numerous aspects of various of the present claims including, inter alia, GUIs, wireless, cell phones, internet, reservations, waitlisting, frequency, payment processing, POS systems, printing, etc. The Examiner's reliance on Halverson for its disclosure of handwriting recognition is improper because there was no reason to combine the survey system disclosure of Halverson with the disclosures of any of the other applied references to render obvious the claimed invention. Halverson does not supply the elements missing from the other references nor do the other references describe the elements asserted by the Examiner as explained above, nor would it have

been obvious to a person of ordinary skill in the art to combine the teachings of Kinebuchi or any other cited reference with the teaching of Halverson because Halverson does not teach a menu/ordering management computer system as asserted by the Examiner. The rejection of claim 111 should therefore be withdrawn.

The Examiner cited Kinebuchi as teaching the recitation of claim 114 directed to facilitation of printing directly from the user interface of the handheld device. However, Kinebuchi does not even mention handhelds and certainly did not envision how facilitation of printing could be done "directly from the user interface" of something he did not even envision a need for. Notwithstanding that claim 114 as previously presented is believed patentable over the art of record, this claim has been amended to further recite that the system selects the printer closest to the handheld device equipped server at a given time in order to even more clearly distinguish over the cited art. Claim 114 is thus believed independently allowable over the cited references.

The Examiner applied the Showghi patent against the recitations of claims 115 and 127 that the wireless computing device is a smart phone or other consumer wireless communications device. As discussed above, the relied-on passages from Showghi's disclosure are not prior art to the present application and claims and there is no teaching in any of the cited references of using a smart phone or other consumer wireless device in the synchronized system as presently claimed nor a recognition or teaching of how the presently-claimed invention might be implemented. The rejections of claims 115 and 127 should thus be withdrawn.

The Examiner cited Kinebuchi as teaching the recitation of claim 124 that the system is further configured to automatically communicate selections made from a menu on at

least one web page or at least one wireless computing device and transmitted over the internet to either the central database or at least one wireless handheld computing device or at least one web page. However, the cited passage from Kinebuchi (col. 7, line 63 – col. 8, line 3) says nothing about transmission of menu selections via the internet nor does Kinebuchi even mention handhelds or the internet. Nor do any other cited prior art references teach this claimed feature. As discussed above, Showghi's discussion of the internet is not prior art to the present application and claims. This rejection should thus be withdrawn

* * *

Neither of the cited references, either alone or in combination, describe or suggest the presently-claimed aspects of the Applicants' claimed information management and synchronous communications system, nor would the knowledge of a person of ordinary skill in the art supply either of these aspects missing from the descriptions of the cited references. Moreover, for at least the reasons stated above, there is no basis for imputing knowledge of either of the presently-claimed aspects to a person of ordinary skill in the art or for combining any such imputed knowledge with either of the cited references. Further, the art made of record but not relied on by the Examiner in making the claims rejections does not supply the claimed aspects which are missing from the descriptions of the applied references, nor would the knowledge of a person skilled in the art combined with the art made of record supply the aspects missing from the cited references for the reasons stated above. The Applicants therefore believe the claims as presently presented are patentably distinguishable over the references of record, either alone or in combination.

An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

CONCLUSION

Based on the foregoing remarks and amendments and the discussion at the April 22, 2008 interview, the Applicants respectfully request reconsideration and withdrawal of the pending rejections and allowance of this application. The Applicants respectfully submit that claims 103-127 are now patentable and in condition for allowance. An action passing this case to issue is therefore respectfully requested.

If any issues remain, or if the Examiner has any suggestions for expediting issuance of this application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below. Favorable and prompt consideration is requested.

AUTHORIZATION

Applicants believe that this preliminary amendment is timely filed prior to examination on the merits and that no additional fee is required. However, to the extent that any extension of time is necessary or any additional fees are required, Applicants hereby authorize the Commissioner to charge any additional fees, or credit any overpayment, to Deposit Account No. 13-4500 (Order No. 3125-4003US1).

Respectfully submitted,
MORGAN & FINNEGAN LLP

Dated: May 28, 2008

By: _____
Angus R. Gill
Registration No. 51,133

Apple, Exhibit 1012, Page 255

CORRESPONDENCE ADDRESS:
MORGAN & FINNEGAN L.L.P.
3 World Financial Center
New York, New York 10281
(212) 415-8700 (Telephone)
(212) 415-8701 (Facsimile)

Electronic Acknowledgement Receipt

EFS ID:	3365476
Application Number:	11112990
International Application Number:	
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Customer Number:	27123
Filer:	Angus Robert Gill/Gary Rymer
Filer Authorized By:	Angus Robert Gill
Attorney Docket Number:	3125-4003US1
Receipt Date:	28-MAY-2008
Filing Date:	22-APR-2005
Time Stamp:	12:26:07
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Amendment - After Non-Final Rejection	reply.pdf	1517443 2ddcbfb5d4b3b3d7d0d0462a4c2eb29ab652a819	no	31

Warnings:	
Information:	

Total Files Size (in bytes):	1517443

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
11/112,990	04/22/2005	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY ☒ FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 05/28/2008

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 25	Minus	** 97	= 0	X $25 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 3	Minus	***12	= 0	X $105 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/CORALIA BETANCOURT/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/112,990	04/22/2005	Keith R. McNally	3125-4003US1	7098

27123 7590 08/22/2008

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER	
BROPHY, MATTHEW J	

ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
08/22/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com
Shopkins@Morganfinnegan.com
jmedina@Morganfinnegan.com

Office Action Summary	Application No.	Applicant(s)	
	11/112,990	MCNALLY ET AL.	
	Examiner	Art Unit	
	MATTHEW J. BROPHY	2191	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 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 May 2008*.

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) *103-127* 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) *103-127* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

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/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to amendment filed May 28, 2008

2. Claims 103-127 are pending

Response to Amendment

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 103-122 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 1 and 12 respectively of U.S. Patent No. 6,384,850 in view of USPN 5,937,041 Cardillo IV et al hereinafter Cardillo.

Regarding Claims 103, 118 and 122, while these claims are not identical to the respective claims 1, 1 and 12 in USPN 6,384,850, they are patentably indistinct from these claims with the exception of (e.g. from Claim 103, and appearing similarly in Claims 118 and 122) "display of the second menu on the display screen of a second

graphical user interface integral with the wireless handheld computing device, said second menu and any additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics". However this limitation is taught by e.g. Cardillo: **(e.g. Col. 11, Ln 36-41 "With conventional ADSI scripting techniques, AIB 180 creates a data display block containing only the most relevant portions of the retrieved data file. This newly formatted data display block would be created to specifically fit onto the screen-display 111.")** In addition it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of USPN 6,384,850 with the teachings of Cardillo, as Cardillo as described above allows the specific fitting of a menu to the display of the wireless device, and thus would allow the previous invention to interface with heterogenous wirless devices (e.g cell phones, pdas etc).

5. The dependent claims are rejected for the same reasons described here above.

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement

Response to Arguments

6. Applicant's arguments, see Remarks, filed May 28, 2008, with respect to the 103 rejections have been fully considered and are persuasive. The rejections of 103-127 have been withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. BROPHY whose telephone number is 571-270-1642. The examiner can normally be reached on Monday-Thursday 8:00AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJB

8/15/2008

/Wei Zhen/

Supervisory Patent Examiner, Art Unit 2191

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11112990	MCNALLY ET AL.
	Examiner	Art Unit
	MATTHEW J BROPHY	2191

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	03/07/2008	08/15/2008							
	103	✓	✓							
	104	✓	✓							
	105	✓	✓							
	106	✓	✓							
	107	✓	✓							
	108	✓	✓							
	109	✓	✓							
	110	✓	✓							
	111	✓	✓							
	112	✓	✓							
	113	✓	✓							
	114	✓	✓							
	115	✓	✓							
	116	✓	✓							
	117	✓	✓							
	118	✓	✓							
	119	✓	✓							
	120	✓	✓							
	121	✓	✓							
	122	✓	✓							
	123	✓	✓							
	124	✓	✓							
	125	✓	✓							
	126	✓	✓							
	127	✓	✓							

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11112990	MCNALLY ET AL.
	Examiner	**Art Unit**
	MATTHEW J BROPHY	2191

SEARCHED			
Class	**Subclass**	**Date**	**Examiner**
715	810-845	8/15/2008	MJB

SEARCH NOTES		
Search Notes	**Date**	**Examiner**
See EAST search History	8/15/2008	MJB
inventor search in EDAN	8/15/2008	MJB

INTERFERENCE SEARCH			
Class	**Subclass**	**Date**	**Examiner**

FORM PTO-1449A INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: Keith McNally et al.	
	Filing Date: April 22, 2005	Group Art Unit: 2191

U.S. PATENT / PUBLICATION DOCUMENTS

Examiner Initial		Patent/Publication Number	Publication/Issue Date	Name	Filing Date
	1.	5,974,238	October 26, 1999	Chase, Jr.	August 7, 1996

FOREIGN PATENT DOCUMENTS

Examiner Initial		Patent Number	Publication Date	Country	Copy Filed	Translation
					☐ Yes	☐ Yes ☐ No ☐ Abstract ☐ N/A
					☐ Yes	☐ Yes ☐ No ☐ Abstract ☐ N/A
					☐ Yes	☐ Yes ☐ No ☐ Abstract ☐ N/A
					☐ Yes	☐ Yes ☐ No ☐ Abstract ☐ N/A
					☐ Yes	☐ Yes ☐ No ☐ Abstract ☐ N/A
					☐ Yes	☐ Yes ☐ No ☐ Abstract ☐ N/A

Examiner	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.

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally, et al.	Group Art Unit:	2191
Filed:	April 22, 2005	Examiner:	Brophy, Matthew
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

REQUEST FOR RECONSIDERATION

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

Sir:

In response to the pending non-Final Office Action dated August 22, 2008, reconsideration and allowance of the pending claims of the above-identified application is respectfully requested.

Remarks begin on page 2 of this paper.

REMARKS

Claims 1-102 were previously cancelled without prejudice or disclaimer by preliminary amendments filed in this application on April 22, 2005 and September 25, 2007. Claims 103-127 are now pending in the application.

Claims 103-122 were rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 1 and 12 respectively of U.S. Patent No. 6,384,850 in view of U.S. Patent No. 5,937,041 ("Cardillo"). [8/22/08 Office Action at p.2]. Applicants do not acquiesce to the characterization of Cardillo made in the Office Action and respectfully assert that Cardillo's teaching is not pertinent to the subject matter of the pending claims. However, in the interest of furthering prosecution, Applicants submit herewith a Terminal Disclaimer signed by the Assignee's authorized representative, noting that U.S. Patent No. 6,384,850 is commonly owned by the Assignee of the present application,

Applicants believe that the nonstatutory obviousness-type double patenting rejection has been overcome by the submission of the Terminal Disclaimer.

CONCLUSION

Based on the foregoing remarks, the Applicants respectfully request reconsideration and withdrawal of the pending rejections and allowance of this application. The Applicants respectfully submit that claims 103-127 are now patentable and in condition for allowance. An action passing this case to issue is therefore respectfully requested.

If any issues remain, or if the Examiner has any suggestions for expediting issuance of this application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below. Favorable and prompt consideration is requested.

AUTHORIZATION

Applicants believe that this preliminary amendment is timely filed prior to examination on the merits and that no additional fee is required. However, to the extent that any extension of time is necessary or any additional fees are required, Applicants hereby authorize the Commissioner to charge any additional fees, or credit any overpayment, to Deposit Account No. 13-4500 (Order No. 3125-4003US1).

Respectfully submitted,
MORGAN & FINNEGAN LLP

Dated: August 29, 2008

By:_____
Angus R. Gill
Registration No. 51,133

CORRESPONDENCE ADDRESS:
MORGAN & FINNEGAN L.L.P.
3 World Financial Center
New York, New York 10281
(212) 415-8700 (Telephone)
(212) 415-8701 (Facsimile)

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	McNally, et al.		
		Group Art Unit:	2191
Serial No.:	11/112,990		
		Examiner:	Brophy, Matthew
Filed:	April 22, 2005		

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(C)
TO OBVIATE DOUBLE PATENTING REJECTION

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

Sir:

Identity of Assignee

The petitioner, Ameranth Wireless, Inc., having a business address at 5820 Oberlin Drive, Suite 202, San Diego, CA 92121, is the owner by assignment of the entire, right, title and interest in the above-identified application, Serial No. 11/112,990. The petitioner is also the owner of the entire, right, title and interest in U.S. Patent No. 6,384,850.

Identification of Person(s) Making This Disclaimer

Name of disclaimant: Angus R. Gill. Disclaimant represents that he is a Registered Patent Agent, Registration No. 51,133, and authorized to sign on behalf of the assignee identified above.

Extent of Interest

The extent of assignee's interest is in the whole of this invention.

Declaration Under 37 C.F.R. 3.73(b)

I, the undersigned, have reviewed all the documents in the chain of title of the patent application identified above and, to the best of my knowledge and belief, title is in the assignee identified above.

Disclaimer

The petitioner, through its Agent of Record, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, of United States Patent No. 6,384,850. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and United States Patent 6,384,850 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of U.S. Patent 6,384,850, in the event that U.S. Patent 6,384,850 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Fee Status

(37 C.F.R. 1.20(d) and 37 C.F.R. 1.321)

☒ large entity--fee $110.00

☐ small entity--fee $55.00

Fee Payment

☐ Attached is a check in the sum of $.

☒ Charge Deposit Account 13-4500, Order No. 3125-4003US1 any fee required by this paper.

AUTHORIZATIONS:

The Commissioner is hereby authorized to charge any additional fees which may be required for timely consideration of this Terminal Disclaimer under 37 C.F.R. §§1.16 -§1.20 or credit any overpayment to Deposit Account No. 13-4500,Order No. 3125-4003US1.

A DUPLICATE COPY OF THIS DISCLAIMER IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: August 29, 2008 By: _____
Angus R. Gill
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FORM PTO-1449B INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: Keith McNally et al.	
	Filing Date: April 22, 2005	Group Art Unit: 2191

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.
	1.	SQUIRREL SYSTEMS, company information web page, http://web.archive.org/web/19990508153731/www.squirrelsystems.com/about/company.html, May 8, 1999
	2.	SQUIRREL SYSTEMS, products web page, http://web.archive.org/web/19990508175824/www.squirrelsystems.com/products/newsq.html, May 8 ,1999
	3.	ROBIN BERGER, "POS Positions Spago For Growth," http://web.archive.org/web/19991009105324/www.squirrelsystems.com/media/articles/spago.html, http://web.archive.org/web/19991112165756/www.squirrelsystems.com/media/articles.html, Hospitality Technology, April/May 1997
	4.	SQUIRREL COMPANIES INC., System Setup Version 3.0x, Copyright 1989
	5.	SQUIRREL COMPANIES INC., Squirrel Restaurant Management System Brochure, Pre-September 21, 1999??
	6.	SQUIRREL SYSTEMS, "SQUiRREL® Companies Inc. wins the California Restaurant Association's 1998 EXPO Innovator Award in the Technology category", http://web.archive.org/web/19991013045515/squirrelsystems.com/media/pr/aug2098.html, August 20, 1998
	7.	BUSINESS WIRE, Fujitsu and Sulcus Hospitality Group partner to develop first wireless computer for restaurant industry, Business Wire, August 30, 1993
	8.	BUSINESS WIRE, "Sulcus's Squirrel and cybermeals Ink Technology Alliance; cybermeals New Menucaster Software to be Bundled into Squirrel's Touch Tomorrow Point of Sale Package," http://findarticles.com/p/articles/mi_m0EIN/is_1998_Feb_24/ai_20316339?tag=content;col1, Business Wire, February 24, 1998
	9.	BUSINESS WIRE, "Accel Partners Invest $10 Million in cybermeals", http://www.allbusiness.com/banking-finance/financial-markets-investing/6840069-1.html, Business Wire, May 28, 1998
	10.	REVSHARE.com, cybermeal revenue sharing program, http://web.archive.org/web/19980124080645/http://www.revshare.com/, January 24, 1998
	11.	SQUIRREL SYSTEMS, SQ Classic product webpage, http://web.archive.org/web/19991010022213/www.squirrelsystems.com/products/sq_classic.html, October 10, 1999

Examiner Signature		Date Considered	

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FORM PTO-1449B INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: Keith McNally et al.	
	Filing Date: April 22, 2005	Group Art Unit: 2191

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	12.	SQUIRREL SYSTEMS, "Brew Moon Management Toasts SQUiRREL's 'Seamless Solution'", http://web.archive.org/web/19990508170309/www.squirrelsystems.com/media/articles/brewmoon.html, November 1998
	13.	SQUIRREL SYSTEMS, "Squirrel Customer Profile: CHEVY'S FRESH MEX", http://www.squirrelsystems.com/news/articles/9808.html, August 1998
	14.	MICROS SYSTEMS, INC., "8700 HMS Version 2.10 User's Manual", http://web.archive.org/web/19961111034156/www.micros.com/frames/servdine.htm, Copyright 1997
	15.	MICROS SYSTEMS, INC., core products web page, http://web.archive.org/web/19961111034156/www.micros.com/frames/servdine.htm, November 11, 1996
	16.	MICROS SYSTEMS, INC., new products web page, http://web.archive.org/web/1996111103410/www.micros.com/frames/innovats.htm, November 11, 1996
	17.	MICROS SYSTEMS, INC., quick service products web page, http://web.archive.org/web/19961111034149/www.micros.com/frames/quikserv.htm, November 11, 1996
	18.	MICROS SYSTEMS, INC., company information web page, http://web.archive.org/web/19961111034029/www.micros.com/frames/about.htm, November 11, 1996
	19.	MICROS SYSTEMS, INC., 8700 HMS Product Overview, http://web.archive.org/web/19990508144340/www.micros.com/mktg/html/8700over.htm, May 8, 1999
	20.	MICROS HOSPITALITY INFORMATION SYSTEMS, "Preliminary Information Packet for the: Micros Hand-Held Touchscreen," Pre-September 21, 1999??
	21.	MICROS SYSTEMS, INC., "The MICROS 2700 HTS Touchscreen", Pre September 21, 1999??
	22.	INTEGRATED RESTAURANT SOFTWARE, RMS Touch - Touch Screen Restaurant Management System product description, http://web.archive.org/web/19970215025823/www.rmstouch.com/pos.htm, February 15, 1997.

Examiner Signature		Date Considered	

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	Applicant: Keith McNally et al.	
	Filing Date: April 22, 2005	Group Art Unit: 2191

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.
	23.	INTEGRATED RESTAURANT SOFTWARE, company profile web page, http://web.archive.org/web/19970215025858/www.rmstouch.com/profile.htm, February 15, 1997
	24.	COMPUWAVE TECHNOLOGIES, INC., Elite32 Palm System brochure, Pre-September 21, 1999??
	25.	COMPUWAVE TECHNOLOGIES, INC., POSInfrared Restaurant System brochure, Pre-September 21, 1999??
	26.	COMPUWAVE TECHNOLOGIES, INC., Wireless POS DRIVE-THRU SYSTEM brochure, Pre-September 21, 1999??
	27.	COMPUWAVE TECHNOLOGIES, INC., "Compuwave Technologies Approved as Supplier to McDonald's Canada", Compuwave Press Release, Sept. 14, 2000
	28.	COMPUWAVE TECHNOLOGIES, INC., Revolutionary WIRELESS Restaurant System brochure, Pre-September 21, 1999??
	29.	MENUSOFT SYSTEMS CORPORATION, "Winning with Windows Digital Dining: Austin 97", Austin, Texas Digital Dining Users' Conference, Feb. 20, 1997
	30.	MENUSOFT SYSTEMS CORPORATION, "Digital Dining for Windows User Manual", Copyright 1997
	31.	MENUSOFT SYSTEMS CORPORATION, "Digital Dining for Windows v7.0 User Manual", Copyright 1997
	32.	MENUSOFT SYSTEMS CORPORATION, "Digital Dining for Windows v7.0 setup manual", Copyright 1997
	33.	MICROS SYSTEMS, INC., "POS Configuration User's Guide: 3700 POS", Copyright 1998
	34.	IBERTECH, INC., "Ibertech, cybermeals Announce Technology Partnership", http://findarticles.com/p/articles/mi_m0EIN/is_1998_Feb_2/ai_20205914/print?tag=artBody;col1, Business Wire. February 2, 1998
	35.	ED RUBENSTEIN, "Future Food for Thought", http://findarticles.com/p/articles/mi_m3190/is_/ai_20462276, Nation's Restaurant News, March 30, 1998
	36.	AMERANTH TECHNOLOGY SYSTEMS, INC., company home page, http://web.archive.org/web/19981202001436/http://www.ameranth.com/, December, 02, 1998

Examiner Signature		Date Considered	

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FORM PTO-1449B INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: Keith McNally et al.	
	Filing Date: April 22, 2005	Group Art Unit: 2191

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.
	37.	COMPUWAVE TECHNOLOGIES, INC., company information web page, http://web.archive.org/web/20010207174316/www.compuwave.net/about.htm. February 7, 2001
	38.	COLLINS & MALIK, "HOSPITALITY INFORMATION TECHNOLOGY", pp. 214-376, Kendall/Hunt Pub. Co., 3d Ed., 1998
	39.	HOSPITALITY TECHNOLOGY, pages 14,26,34, January 1997
	40.	"Wireless Technologies and the National Information Infrastructure", OTA-ITC-622 GPO stock #052-003-01421-1, pp. 99-131, September 1995

Examiner Signature		Date Considered	

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

Electronic Patent Application Fee Transmittal

Application Number:	11112990
Filing Date:	22-Apr-2005
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Filer:	Allen CS Chein/Marvette Ferguson
Attorney Docket Number:	3125-4003US1

Filed as Large Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Submission- Information Disclosure Stmt	1806	1	180	180
Statutory disclaimer	1814	1	130	130
		Total in USD ($)		**310**

Electronic Acknowledgement Receipt

EFS ID:	3863604
Application Number:	11112990
International Application Number:	
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Customer Number:	27123
Filer:	Allen CS Chein/Marvette Ferguson
Filer Authorized By:	Allen CS Chein
Attorney Docket Number:	3125-4003US1
Receipt Date:	29-AUG-2008
Filing Date:	22-APR-2005
Time Stamp:	15:11:44
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$310
RAM confirmation Number	457
Deposit Account	134500
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)

1	Information Disclosure Statement Letter	31254003US1SupplementalInformationDisclosureStatement.pdf	180553 b8c9d9421d95911e45f4333ebd7aba3b971c0efa	no	4
Warnings:					
Information:					
2		31254003US1RequestForConsideration.pdf	83659 881e52b5e67538df35725cfcb1860f0401c147a2	yes	3
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Amendment - After Non-Final Rejection		1	1	
	Applicant Arguments/Remarks Made in an Amendment		2	3	
Warnings:					
Information:					
3	Terminal Disclaimer Filed	31254003US1TerminalDisclaimer.pdf	91298 bfa25c8bc1cd8b40e921caa94c9ce8229e69d423	no	3
Warnings:					
Information:					
4	Information Disclosure Statement Letter	31254003US1FormPTO1449A.pdf	33039 3db936f56164ba47771afdcb27f609f2e84c6707	no	1
Warnings:					
Information:					
5	Information Disclosure Statement Letter	31254003US1FormPTO1449B.pdf	313064 12914b493e0982ba3f815c0c81ba2d1a6437a674	no	4
Warnings:					
Information:					
6	NPL Documents	1A.pdf	138749 32d89471001828a30604f05cc3491d7745845a53	no	3
Warnings:					
Information:					
7	NPL Documents	1B.pdf	102393 35f80e8bd9965c0a7de1b21f5978f84a6e2a8a4f	no	4
Warnings:					
Information:					
8	NPL Documents	1C.pdf	223634 a8a2da174f9d06d23eaa8450c7cf7970549a[illegible]	no	5

Warnings:					
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9	NPL Documents	1D.pdf	18141027 6618ea1cfde410552004d7e2116e218f8240b081	no	400
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Information:					
10	NPL Documents	1F.pdf	100690 d92ead02c36e5338167914e77ce6be585e3b3eea	no	3
Warnings:					
Information:					
11	NPL Documents	1G.pdf	90168 6c839059e515fc0a0b5c0810c2cba3f6263df51e	no	2
Warnings:					
Information:					
12	NPL Documents	1H.pdf	97234 30f042a25fc055a8805c0b52e70163d10e22fcfc	no	1
Warnings:					
Information:					
13	NPL Documents	1I.pdf	444906 ffa4b432348f7b57428353c25b51e91dac443ca2	no	5
Warnings:					
Information:					
14	NPL Documents	1J.pdf	281391 78fcc9a2490b57ec0928f6888c1a2ef9e0d310df	no	4
Warnings:					
Information:					
15	NPL Documents	1K.pdf	313512 0d2730ad752990d8bbad0bf7b0c44f9cac63ba11	no	5
Warnings:					
Information:					
16	NPL Documents	1L.pdf	3329385 5574dcb4082da421b8facf89d25d48d676670fa5	no	41
Warnings:					
Information:					
17	NPL Documents	1M.pdf	193446 44d5e1d18d8f73cd47d3b77e0d2220dd04e06f95	no	4

Warnings:					
Information:					
18	NPL Documents	1N.pdf	142561 86557299f1bfff81f38b24e061fd1fe16bad4907	no	2
Warnings:					
Information:					
19	NPL Documents	3.pdf	24830011 d8fb5567337228f437435a2bb1f6f11c3b673ea6	no	535
Warnings:					
Information:					
20	NPL Documents	2.pdf	1151600 f94f6be33e482c6dfc0a9a4ca1515748f81ce754	no	21
Warnings:					
Information:					
21	Fee Worksheet (PTO-06)	fee-info.pdf	31636 6e76d2e8e4f9cea49652316c5672510507461d9b	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	50313956	

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<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally et al.	Group Art Unit:	2191
		Examiner:	Brophy, Matthew J.
Filed:	April 22, 2005		
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

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

Sir:

This Information Disclosure Statement is filed in accordance with 37 C.F.R. §§1.56, 1.97 and 1.98. The items listed on Form PTO-1449, a copy of which is enclosed, are made of record to assist the Patent and Trademark Office in its examination of this application. The Examiner is respectfully requested to fully consider the items and to independently ascertain their teaching.

The submitted references were provided to the assignee of the present application very recently in a litigation (Ameranth, Inc. v. Menusoft Systems Corp. et al., 2:07-cv-00271-TJW-CE, E.D. Tex.) involving patents claiming common priority with the present application. The references were put forth in invalidity contentions as required by E.D. Tex. Local Patent Rule 3-3 (see www.txed.uscourts.gov/Rules/LocalRules/Documents/Appendix%20M.pdf). The invalidity contentions comprise nearly 3000 pages. Applicants submit herewith the alleged prior art references referred to in the invalidity contentions document which were provided to Applicants. Due to the volume, Applicants do not presently submit the non-prior art invalidity contentions document. However, if the Examiner wishes to review the aforesaid invalidity contentions document, Applicants request that he inform the Applicants' undersigned agent. Applicants will promptly provide the aforesaid invalidity contentions document pursuant to any such request.

Also, please note that items 5, 20-21, 24-26 and 28 (Non Patent Literature Documents on Form 1449B) have been alleged by defendants in the above-referenced action to be prior art. However, those documents are undated. Accordingly, for purposes of examination, Applicants respectfully request that those references be treated as prior art based upon the allegations, but Applicants reserve the right to challenge that status if information becomes available indicating that defendants' allegations are not correct.

1. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, an English language translation of that item or a portion thereof or a concise explanation of the relevance of that item is enclosed:

2. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, a concise explanation of the relevance of that item is incorporated in the specification of the above-identified application.

3. ☐ Any copy of the items listed on the enclosed copy of Form PTO-1449 that is not enclosed with this Information Disclosure Statement was previously cited by or submitted to the Patent and Trademark Office in application Serial No. _____, filed _____.

4. ☐ No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with:

   ☐ 37 C.F.R. §1.97(b)(1), within three months of the filing date of a national application other than a CPA; or

   ☐ 37 C.F.R. §1.97(b)(2), within three months of the date of entry into the national stage as set forth in §1.491 in an international application; or

   ☐ 37 C.F.R. §1.97(b)(3), before the mailing date of a first Office action on the merits; or

   ☐ 37 C.F.R. §1.97(b)(4) before the mailing date of a first office action after the filing of an RCE under §1.114.

5. ☐ No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in paragraph 4 above but before the mailing date of a final action or a Notice of Allowance (where there has been no prior final action), and is accompanied by one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below.

6. ☒ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in

paragraph 4 above but before the mailing date of a final action or a notice of allowance (where there has been no prior final action):

☐ A check in the amount of $180.00 is enclosed in payment of the fee.

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7. ☐ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(d), after the mailing date of a final action or a notice of allowance, whichever comes first, but before payment of the issue fee, and is accompanied by:

   a. one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below; and

   b. the fee due under 37 C.F.R. §1.17(p) which is paid as set forth in paragraph 11 below.

8. ☐ This Information Disclosure Statement is being filed in compliance with:

   a. ☐ 37 C.F.R. §1.313(b)(3) or §1.313(c)(1), after the issue fee has been paid and information cited in this Information Disclosure Statement may render at least one claim unpatentable and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h);

   b. ☐ 37 C.F.R. §1.313(c)(2) or §1.313(c)(3), after the issue fee has been paid and information cited in this Information Disclosure Statement is to be considered in a Request for Continued Examination (RCE) or a Continuation application upon abandonment of the instant application and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h).

   c. ☐ The fee due under 37 C.F.R. §§1.17(h) is paid as set forth in paragraph 11 below.

9. ☐ I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in a 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.

   ☐ I hereby certify that no item of information in the Information Disclosure Statement filed herewith was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

10. ☐ This document is accompanied by ☐ a Search Report ☐ Communication which was cited in a corresponding ☐ PCT or ☐ Foreign counterpart application

11. ☐ A check in the amount of $ is enclosed in payment of the fees due under 37 C.F.R. §§1.17(h) and 1.17(p).

☐ Charge the fees due under 37 C.F.R. §§1.17(h) and 1.17(p) to Deposit Account No. **13-4500**, Order No. _____.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required for this Information Disclosure Statement, or credit any overpayment to Deposit Account No. **13-4500**, Order No. 3125-4003US1.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: August 29, 2008

By: _____
Angus R. Gill
Registration No. 51,133

Correspondence Address:
Address Associated With Customer Number:
27123

(212) 415-8700 Telephone
(212) 415-8701 Facsimile

OIPE IAP04 AUG 29 2008 PATENT & TRADEMARK OFFICE

09.02.08

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally et al.	Group Art Unit:	2191
		Examiner:	Brophy, Matthew J.
Filed:	April 22, 2005		
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

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

Sir:

This Information Disclosure Statement is filed in accordance with 37 C.F.R. §§1.56, 1.97 and 1.98. The items listed on Form PTO-1449, a copy of which is enclosed, are made of record to assist the Patent and Trademark Office in its examination of this application. The Examiner is respectfully requested to fully consider the items and to independently ascertain their teaching.

The submitted references were provided to the assignee of the present application very recently in a litigation (Ameranth, Inc. v. Menusoft Systems Corp. et al., 2:07-cv-00271-TJW-CE, E.D. Tex.) involving patents claiming common priority with the present application. The references were put forth in invalidity contentions as required by E.D. Tex. Local Patent Rule 3-3 (see www.txed.uscourts.gov/Rules/LocalRules/Documents/Appendix%20M.pdf). The invalidity contentions comprise nearly 3000 pages. Applicants submit herewith the alleged prior art references referred to in the invalidity contentions document which were provided to Applicants. Due to the volume, Applicants do not presently submit the non-prior art invalidity contentions document. However, if the Examiner wishes to review the aforesaid invalidity contentions document, Applicants request that he inform the Applicants' undersigned agent. Applicants will promptly provide the aforesaid invalidity contentions document pursuant to any such request.

1161392 v1

09/02/2008 LTRUONG 00000031 134500 11112990
01 FC:1806 180.00 DA

Also, please note that item 2 (Non Patent Literature Documents on Form 1449B) has been alleged by defendants in the above-referenced action to be prior art. However, that document is undated. Accordingly, for purposes of examination, Applicants respectfully request that the reference be treated as prior art based upon the allegations, but Applicants reserve the right to challenge that status if information becomes available indicating that defendants' allegations are not correct.

1. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, an English language translation of that item or a portion thereof or a concise explanation of the relevance of that item is enclosed:

2. ☐ For each of the following items listed on the enclosed copy of Form PTO-1449 that is not in the English language, a concise explanation of the relevance of that item is incorporated in the specification of the above-identified application.

3. ☐ Any copy of the items listed on the enclosed copy of Form PTO-1449 that is not enclosed with this Information Disclosure Statement was previously cited by or submitted to the Patent and Trademark Office in application Serial No. _____, filed _____.

4. ☐ No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with:

   ☐ 37 C.F.R. §1.97(b)(1), within three months of the filing date of a national application other than a CPA; or

   ☐ 37 C.F.R. §1.97(b)(2), within three months of the date of entry into the national stage as set forth in §1.491 in an international application; or

   ☐ 37 C.F.R. §1.97(b)(3), before the mailing date of a first Office action on the merits; or

   ☐ 37 C.F.R. §1.97(b)(4) before the mailing date of a first office action after the filing of an RCE under §1.114.

5. ☐ No fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in paragraph 4 above but before the mailing date of a final action or a Notice of Allowance (where there has been no prior final action), and is accompanied by one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below.

6. ☒ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(c), after the period specified in

paragraph 4 above but before the mailing date of a final action or a notice of allowance (where there has been no prior final action):

☐ A check in the amount of $180.00 is enclosed in payment of the fee.

☒ Charge the fee to Deposit Account No. **13-4500**, Order No. 3125-4003US1.

7. ☐ A fee is due under 37 C.F.R. §1.17(p) for this Information Disclosure Statement since it is being filed in compliance with 37 C.F.R. §1.97(d), after the mailing date of a final action or a notice of allowance, whichever comes first, but before payment of the issue fee, and is accompanied by:

a. one of the certifications pursuant to 37 C.F.R. §1.97(e) set forth in paragraph 9 below; and

b. the fee due under 37 C.F.R. §1.17(p) which is paid as set forth in paragraph 11 below.

8. ☐ This Information Disclosure Statement is being filed in compliance with:

a. ☐ 37 C.F.R. §1.313(b)(3) or §1.313(c)(1), after the issue fee has been paid and information cited in this Information Disclosure Statement may render at least one claim unpatentable and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h);

b. ☐ 37 C.F.R. §1.313(c)(2) or §1.313(c)(3), after the issue fee has been paid and information cited in this Information Disclosure Statement is to be considered in a Request for Continued Examination (RCE) or a Continuation application upon abandonment of the instant application and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. §1.17(h).

c. ☐ The fee due under 37 C.F.R. §§1.17(h) is paid as set forth in paragraph 11 below.

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☐ I hereby certify that no item of information in the Information Disclosure Statement filed herewith was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

10. ☐ This document is accompanied by ☐ a Search Report ☐ Communication which was cited in a corresponding ☐ PCT or ☐ Foreign counterpart application

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Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: August 29, 2008 By: _____
Angus R. Gill
Registration No. 51,133

Correspondence Address:
Address Associated With Customer Number:
27123

(212) 415-8700 Telephone
(212) 415-8701 Facsimile

OIPE IAP84
AUG 29 2008
PATENT & TRADEMARK OFFICE

FORM PTO-1449B INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: Keith McNally et al.	
	Filing Date: April 22, 2005	Group Art Unit: 2191

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.
	1.	INTEGRATED RESTAURANT SOFTWARE, "Dining Out: Baltimore - D.C." video, November 4, 1994
	2.	CompuWave Media Publication in Taiwan, Pre-9/21/99??

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. This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

ARTIFACT SHEET

Enter artifact number below. Artifact number is application number + artifact type code (see list below) + sequential letter (A, B, C …). The first artifact folder for an artifact type receives the letter A, the second B, etc..
Examples: 59123456PA, 59123456PB, 59123456ZA, 59123456ZB

11112990SA

Indicate quantity of a single type of artifact received but not scanned. Create individual artifact folder/box and artifact number for each Artifact Type.

2 CD(s) containing:
- computer program listing ☐
  Doc Code: Computer Artifact Type Code: P
- pages of specification and/or sequence listing and/or table **2**
  Artifact Type Code: S
  Doc Code: Artifact
- content unspecified or combined ☐
  Doc Code: Artifact Artifact Type Code: U

☐ Stapled Set(s) Color Documents or B/W Photographs
Doc Code: Artifact Artifact Type Code: C

☐ Microfilm(s)
Doc Code: Artifact Artifact Type Code: F

☐ Video tape(s)
Doc Code: Artifact Artifact Type Code: V

☐ Model(s)
Doc Code: Artifact Artifact Type Code: M

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☐ Confidential Information Disclosure Statement or Other Documents marked Proprietary, Trade Secrets, Subject to Protective Order, Material Submitted under MPEP 724.02, etc.
Doc Code: Artifact Artifact Type Code X

☐ Other, description: _____
Doc Code: Artifact Artifact Type Code: Z

March 8, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally et al.	Group Art Unit:	2191
		Examiner:	Brophy, Matthew J.
Filed:	April 22, 2005		
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
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The cited reference herein was identified in a prior IDS (Item No. 5 of IDS submitted August 29, 2008) but the reference document was not submitted due to apparent clerical error.

Also, the submitted reference was provided to the assignee of the present application very recently in a litigation (Ameranth, Inc. v. Menusoft Systems Corp. et al., 2:07-cv-00271-TJW-CE, E.D. Tex.) involving patents claiming common priority with the present application. The references were put forth in invalidity contentions as required by E.D. Tex. Local Patent Rule 3-3 (see www.txed.uscourts.gov/Rules/LocalRules/Documents/Appendix%20M.pdf). The invalidity contentions comprise nearly 3000 pages. Applicants submit herewith (as with the IDS submitted August 29, 2008) an alleged prior art reference referred to in the invalidity contentions document which were provided to Applicants. Due to the volume, Applicants do not presently submit the

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Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: September 22, 2008 By: _____
Angus R. Gill
Registration No. 51,133

Correspondence Address:
Address Associated With Customer Number:
27123

(212) 415-8700 Telephone
(212) 415-8701 Facsimile

FORM PTO-1449B INFORMATION DISCLOSURE CITATION	Attorney Docket: 3125-4003US1	Serial No.: 11/112,990
	Applicant: Keith McNally et al.	
	Filing Date: April 22, 2005	Group Art Unit: 2191

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.
	1.	SQUIRREL COMPANIES INC., Squirrel Restaurant Management System Brochure, Pre-September 21, 1999??

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. This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Electronic Patent Application Fee Transmittal

Application Number:	11112990
Filing Date:	22-Apr-2005
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Filer:	Allen CS Chein/Marvette Ferguson
Attorney Docket Number:	3125-4003US1

Filed as Large Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Submission- Information Disclosure Stmt	1806	1	180	180
		Total in USD ($)		**180**

Electronic Acknowledgement Receipt

EFS ID:	3981058
Application Number:	11112990
International Application Number:	
Confirmation Number:	7098
Title of Invention:	Information management and synchronous communications system with menu generation, and handwriting and voice modification of orders
First Named Inventor/Applicant Name:	Keith R. McNally
Customer Number:	27123
Filer:	Allen CS Chein/Marvette Ferguson
Filer Authorized By:	Allen CS Chein
Attorney Docket Number:	3125-4003US1
Receipt Date:	22-SEP-2008
Filing Date:	22-APR-2005
Time Stamp:	15:15:26
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$180
RAM confirmation Number	565
Deposit Account	134500
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)

1	Information Disclosure Statement Letter	31254003US1SupplementalIDS.pdf	179816 548774c6e0cb42ff97289f025cdf595a7aa128f7	no	4
Warnings:					
Information:					
2	Information Disclosure Statement Letter	31254003US1PTOForm1449B.pdf	56000 8757f68b1cc2718f94cbe588698f885293053e74	no	1
Warnings:					
Information:					
3	NPL Documents	Squirrel.pdf	468056 9e8e1cb40dcc4e60e13ae8998f5c60048ea8b647	no	4
Warnings:					
Information:					
4	Fee Worksheet (PTO-06)	fee-info.pdf	30316 9b809f1c0122fdb659dedaad169ce4249c70cfe6	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	734188	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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.
11/112,990	04/22/2005	Keith R. McNally	3125-4003US1	7098

27123 7590 12/15/2008

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER	
BROPHY, MATTHEW J	
ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
12/15/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com
Shopkins@Morganfinnegan.com
jmedina@Morganfinnegan.com

Office Action Summary	Application No.	Applicant(s)	
	11/112,990	MCNALLY ET AL.	
	Examiner	Art Unit	
	MATTHEW J. BROPHY	2191	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 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 *08 December 2008*.

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) *103-127* 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) *103-127* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

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/SB/08) Paper No(s)/Mail Date *8/29.2008 9/2/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to amendment and terminal disclaimer filed September 8, 2008.

2. Claims 103-127 are pending.

3.

Response to Amendment

Terminal Disclaimer

4. The terminal disclaimer filed on September 9, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USPN 6,384,850 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

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

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

6. Upon further consideration of the prior art of record, Claims 103-122 rejected under 35 U.S.C. 103(a) as being unpatentable over Mircos systems Inc. "POS Configuration User's Guide: 3700 POS", Copyright 1998 in view of USPN 6,973,437 Olewicz and further in view of US PG Pub 20020059405 Angwin

Regarding Claims 103, 118 and 123 Mircos teaches:

An information management and synchronous communications system for generating and transmitting hospitality menus comprising:

a. a central processing unit **(Page 1-2, "The 3700 system uses client/server architecture to manage the unique information about each restaurant's POS environment. Details about the restaurant's operation reside in tables on a database server, an application that manages the database. The database server in turn resides on the server PC. In a MICROS 3700 system, POS Configurator is the gateway to the tables managed by the database server and makes programming a 3700 system easier.")**,

b. a data storage device connected to said central processing unit, **((Page 1-2, "The 3700 system uses client/server architecture to manage the unique information about each restaurant's POS environment. Details about the restaurant's operation reside in tables on a database server, an application that manages the database. The database server in turn resides on the server PC. In a MICROS 3700 system, POS Configurator is the gateway to the tables managed by the database server and makes programming a 3700 system easier.")**

c. an operating system including a first graphical user interface, **(Page 1-3, "POS Configurator is the software layer between you and RDBM S. It's your interface to the database.")**

d. a master menu including menu categories **(see menu levels, Page 6-10 or alternatively menu item classes)**, menu items **("menu items" e.g. Page 6-32)**,

modifiers **(e.g. Condiment groups Page 6-36)** and sub- modifiers **(Condiment Membership Page 6-37)**

wherein said master menu is capable of being stored on said data storage device pursuant to a master menu file structure and said master menu is capable of being displayed in at least one window of said first graphical user interface, **(Page 1-2, "The 3700 system uses client/server architecture to manage the unique information about each restaurant's POS environment. Details about the restaurant's operation reside in tables on a database server, an application that manages the database. The database server in turn resides on the server PC. In a MICROS 3700 system, POS Configurator is the gateway to the tables managed by the database server and makes programming a 3700 system easier." And Page 3-2, "The 3700 POS Configurator interface is easy to learn and use. Refer to the topics on the following pages to understand the tools and functionality of POS Configurator.")**and

e. application software configured to generate a second menu for transmission [to a wireless handheld computing device] ~~or web page,~~ wherein the application software is configured to generate said second menu by utilizing parameters from the master menu file structure [defining the categories, items, modifiers and sub-modifiers] of the master menu **(Page 4-11, "Use the User Workstations form to assign touchscreens, options, order devices, and printers to each UWS. Option settings can be customized for each UWS.")**

such that the information comprising the second menu is synchronized in real time with analogous information comprising the master menu, **(Page 3-8, "The Options menu allows you toturn Caching on or off. Select Cached Updates to cause saved :changes to be posted to the databasewhen you exit a form. When this option is not selected, changes are posted to the database immediately (upon saving)")**

Mircos does not explicitly teach:

a wireless hand held computing device. However, this limitation is taught by Olewicz: **(Col. 9, Ln 2-5, "Take Order function: displays restaurant's menu and specials. Using the touch screen/stylus pen type interface the waiter will be able to easily take orders and forward them directly to the kitchen." See also Col. 3, Ln 30-35, "The system will also include a series of staff communication units such as wait staff or waiter, manager, kitchen and cleanup units, having short range wireless communication capability such as a pager or Palm sized computer, that can be carried on waiters belts or incorporated into an order pad to be used to record customer orders."**

In addition it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Mircos with the teachings of Olewicz, as Olewicz teaches a system of real time menu display and order taking that would improve the customer service of Mircos by adding portability as well as accessibility. (Col 2. Ln 59-

65, “The present invention generally relates to a computer aided communication system for use in restaurants and other business environments, such as nightclubs or other areas where communication between customers and business staff is critical for compiling real time data and for tailoring advertisements to customers and time of day for improving customer service.”)

Mircos in view of Olewicz does not explicitly teach:

wherein the application software is further configured to format the second menu such that the second menu may include additional parameters to facilitate user operations with and display of the second menu on the display screen of a second graphical user interface integral with the wireless handheld computing device, said second menu and any additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics of the wireless handheld computing device screen ~~or web page or series of web pages.~~ However, Agwin teaches: **(Paragraph [0046] “After receiving the Request Services Menu message the Service Boot Host parses the message to obtain the information contained in the message such as a source address, the user identification, device information or the like (block 202). This information is then used to generate the services menu information to be provided to the device specified by the source address of the Request Services Menu message (block 204).”)**

In addition it would have been obvious to one of ordinary skill in the art to combine the teachings of Mircos in view of Olewicz with the teachings of Agwin as Olewicz contemplates the presentation of information on a heterogenous set of wireless systems (Col 6, Ln 27-29, “An example of this type of unit could be a "3COM Palm Pilot", "H P Jornada", "MAXTECH PD-910)" or "CASIO Cassiopeia" having a display such as a LCD screen 27.”) and Agwin teaches a system for displaying menus on a set of heterogenous systems (Paragraph [0020] “By providing an update procedure to the services menu of the pervasive computing device, the present invention may assure that the user is displayed a current services menu. Furthermore, such an ability allows for the control of the services menu presented to a user, for example, to add and remove services which are only temporarily accessible to the user or to present different services menus for different user environments.”)

Regarding the different limitation of claim 118 and 122

118: Mircos further teaches: such that the second menu as displayed on the second graphical user interface appears to a user to be substantially similar to the first menu as displayed on the first graphical user interface. **(Page 4-11, “Use the User Workstations form to assign touchscreens, options, order devices, and printers to each UWS. Option settings can be customized for each UWS.”)**

122: Olewicz further teaches: that the hospitality application information is synchronized between any connected users, wherein the communications control

module is configured to act as an interface between the elements of the system and any applicable communications protocol and wherein the system is configured to format the hospitality application information for display on both the wireless handheld device and web page in conformity with any applicable display constraints of the wireless handheld computing device or web page. **("Col 14. Ln. 13-21, "Similarly, if the request is part of survey data in step 146, survey information and questions are displayed on the table unit and responses are entered into a database in step 202 from which data is compiled by the central server unit to enable management to combine real time and statistical data in step 203 for inventory control and tracking of service such as wait times, etc., which further information also can be posted to a restaurant Internet website.")**

Regarding Claims 104-106, 110, 119, 120 and 123 Mircos further teaches:

104. (Currently amended) The information management and synchronous communications system in accordance with claim 103, further configured to automatically generate and transmit the second menu from the master menu. **(Page 3-8, "The Options menu allows you toturn Caching on or off. Select Cached Updates to cause saved :changes to be posted to the databasewhen you exit a form. When this option is not selected, changes are posted to the database immediately (upon saving)")**

105. (Currently amended) The information management and synchronous communications system in accordance with claim 104, further configured to

automatically generate and transmit the second menu from the master menu in response to at least one of a predetermined time, or the occurrence of an event or a change in the master menu. **(Mircos e.g. Page 6-10, "Distinguish between menu items ordered in different meal periods (such as Breakfast, Lunch, And Dinner)")**

106, 120, 123: wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs. **(Page 1-2, "The 3700 system uses client/server architecture to manage the unique information about each restaurant's POS environment. Details about the restaurant's operation reside in tables on a database server, an application that manages the database. The database server in turn resides on the server PC. In a MICROS 3700 system, POS Configurator is the gateway to the tables managed by the database server and makes programming a 3700 system easier.")**

Regarding Claims 110, 119, Mircos further teaches:

The information management and synchronous communications systems in accordance with claim 103 in which the modifiers and sub-modifiers in either the master or second menus may be further configured to be either required or not required. **(Page 6-38, "Create the allowed and required condiment selections required for each type of menu item in this restaurant.").**

Regarding Claims 107-109, 111-117, and 121, 124-127 Olewicz teaches:

107, 125 (Previously presented) The information management and synchronous communications system in accordance with claim 103 further configured to transmit user selections from the second menu to a receiving computer by wireless link or via the internet. **(Col. 9, Ln 2-5, "Take Order function: displays restaurant's menu and specials. Using the touch screen/stylus pen type interface the waiter will be able to easily take orders and forward them directly to the kitchen.")**

108, 121, 124: further configured such that user selections from a second menu on the wireless computing device ~~or web page~~ are automatically reflected in all other storage or display elements of the system. **(Col. 9, Ln 2-5, "Take Order function: displays restaurant's menu and specials. Using the touch screen/stylus pen type interface the waiter will be able to easily take orders and forward them directly to the kitchen." See also Col. 3, Ln 30-35, "The system will also include a series of staff communication units such as wait staff or waiter, manager, kitchen and cleanup units, having short range wireless communication capability such as a pager or Palm sized computer, that can be carried on waiters belts or incorporated into an order pad to be used to record customer orders."**

109. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to automatically format the second menu for display as cascaded sets of linked graphical

user interface screens appropriate for the display characteristics of the wireless computing device. **(FIG. 6a-6b, Col. 9-10 discusses the multiple function screens on the wait-staff portable order unit)**

111. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to include direct handwriting capture on the wireless device or conversion of the captured handwriting to text capabilities. **(Col. 9, Ln 2-5, "Take Order function: displays restaurant's menu and specials. Using the touch screen/stylus pen type interface the waiter will be able to easily take orders and forward them directly to the kitchen." See also Col. 3, Ln 30-35, "The system will also include a series of staff communication units such as wait staff or waiter, manager, kitchen and cleanup units, having short range wireless communication capability such as a pager or Palm sized computer, that can be carried on waiters belts or incorporated into an order pad to be used to record customer orders."**

Olewicz 112. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to include voice capture or conversion to text capabilities. **(Col. 8, Ln 42-51, "As shown in FIGS. 6A-6B, the staff communication units 13 of the waitstaff and manager 16 generally will comprise a hand held computer 40, possibly same or similar to the one used as the table communication unit, for example a "Palm Pilot" or Cassiopeia. The unit will include an input mechanism 41 such as touch screen, pen stylus 41',**

voice input, light pen, alphanumeric key pad or other input mechanism having features, which will allow information, such as an order taken by a water unit 14 (FIG. 2), to be taken and transmitted electronically.")

Olewicz 113. (Previously presented) The information management and synchronous communications system in accordance with claim 103 wherein the second menu relates to ordering and in which the order can be associated with a particular customer or customers seated at a particular table or area. **(Col. 9, Ln 2-5, "Take Order function: displays restaurant's menu and specials. Using the touch screen/stylus pen type interface the waiter will be able to easily take orders and forward them directly to the kitchen." See also Col. 3, Ln 30-35, "The system will also include a series of staff communication units such as wait staff or waiter, manager, kitchen and cleanup units, having short range wireless communication capability such as a pager or Palm sized computer, that can be carried on waiters belts or incorporated into an order pad to be used to record customer orders."**

114. (Currently amended) The information management and synchronous communications system in accordance with claim 103 in which the wireless handheld computing device is configured to facilitate selection of a printer to print receipts, checks or orders directly from the user interface of the wireless handheld computing device to the printer in closest proximity to the wireless handheld computing device at a given time. **(Col. 8, Ln 12-24, "In an additional embodiment of the table unit 12, the**

communication unit can be a standard type alphanumeric pager, a cell phone, or other similar low cost communication device. In this case some functions described above in the full-featured embodiment unit may not be available. The table unit will also have an optional charge card payment unit 35, with a built in printer to print out customer receipts. This feature will allow the customers to pay the bill, get the receipt, and leave without having to wait for the waiter to perform the transaction. This will not only save time for the customer, but it will also free up the table sooner, which in turn will help the restaurant to do more business.")

115, 127: which the wireless computing device is a smart phone or other consumer wireless communications device. **(Col. 8, Ln 42-51, "As shown in FIGS. 6A-6B, the staff communication units 13 of the waitstaff and manager 16 generally will comprise a hand held computer 40, possibly same or similar to the one used as the table communication unit, for example a "Palm Pilot" or Cassiopeia. The unit will include an input mechanism 41 such as touch screen, pen stylus 41', voice input, light pen, alphanumeric key pad or other input mechanism having features, which will allow information, such as an order taken by a water unit 14 (FIG. 2), to be taken and transmitted electronically.")**

116, 126: further configured to facilitate payment processing from the wireless handheld computing device. **(Col. 8, Ln 12-24, "In an additional embodiment of the table unit 12, the communication unit can be a standard type alphanumeric pager, a cell**

phone, or other similar low cost communication device. In this case some functions described above in the full-featured embodiment unit may not be available. The table unit will also have an optional charge card payment unit 35, with a built in printer to print out customer receipts. This feature will allow the customers to pay the bill, get the receipt, and leave without having to wait for the waiter to perform the transaction. This will not only save time for the customer, but it will also free up the table sooner, which in turn will help the restaurant to do more business.")

117. (Currently amended) The information management and synchronous communications system in accordance with claim 103, further configured such that both the master menu and the generated second menus reflect a billing summary to facilitate processing of payments for an order on the wireless handheld computing device. **(Col. 8, Ln 12-24, "In an additional embodiment of the table unit 12, the communication unit can be a standard type alphanumeric pager, a cell phone, or other similar low cost communication device. In this case some functions described above in the full-featured embodiment unit may not be available. The table unit will also have an optional charge card payment unit 35, with a built in printer to print out customer receipts. This feature will allow the customers to pay the bill, get the receipt, and leave without having to wait for the waiter to perform the transaction. This will not only save time for the customer, but it will also free up the table sooner, which in turn will help the restaurant to do more business.")**

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. BROPHY whose telephone number is 571-270-1642. The examiner can normally be reached on Monday-Thursday 8:00AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJB

12/6/2008

/Wei Y Zhen/

Supervisory Patent Examiner, Art Unit 2191

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11112990	MCNALLY ET AL.
	Examiner	Art Unit
	MATTHEW J BROPHY	2191

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	03/07/2008	08/15/2008	12/08/2008						
	103	✓	✓	✓						
	104	✓	✓	✓						
	105	✓	✓	✓						
	106	✓	✓	✓						
	107	✓	✓	✓						
	108	✓	✓	✓						
	109	✓	✓	✓						
	110	✓	✓	✓						
	111	✓	✓	✓						
	112	✓	✓	✓						
	113	✓	✓	✓						
	114	✓	✓	✓						
	115	✓	✓	✓						
	116	✓	✓	✓						
	117	✓	✓	✓						
	118	✓	✓	✓						
	119	✓	✓	✓						
	120	✓	✓	✓						
	121	✓	✓	✓						
	122	✓	✓	✓						
	123	✓	✓	✓						
	124	✓	✓	✓						
	125	✓	✓	✓						
	126	✓	✓	✓						
	127	✓	✓	✓						

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11112990	MCNALLY ET AL.
	Examiner	Art Unit
	MATTHEW J BROPHY	2191

SEARCHED

Class	Subclass	Date	Examiner
715	810-845	12/8/2008	MJB

SEARCH NOTES

Search Notes	Date	Examiner
See EAST search History	12/8/2008	MJB
inventor search in EDAN	12/8/2008	MJB
NPL (Google Scholar, ACM, IEEE)	12/8/2008	MJB

INTERFERENCE SEARCH

Class	Subclass	Date	Examiner

Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally, et al.	Group Art Unit:	2191
Filed:	April 22, 2005	Examiner:	Brophy, Matthew
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

REPLY AND AMENDMENT UNDER 37 C.F.R. 1.111

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

Sir:

In response to the pending non-Final Office Action dated December 15, 2008, including the cancellation of certain claims, reconsideration and allowance of the still-pending claims of the above-identified application is respectfully requested for the reasons stated herein.

Please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper; and

Remarks begin on page 9 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. Claims 1-102 were canceled without prejudice or disclaimer by previous amendments. By the present amendment, Claims 111 thru 114 are canceled. Claims 103-110 and 115-127 are now pending in the application. No new matter has been added by the present amendment.

1-102. (Canceled).

103. (Previously presented) An information management and synchronous communications system for generating and transmitting hospitality menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a first graphical user interface,

d. a master menu including menu categories, menu items, modifiers and sub-modifiers, wherein said master menu is capable of being stored on said data storage device pursuant to a master menu file structure and said master menu is capable of being displayed in at least one window of said first graphical user interface, and

e. application software configured to generate a second menu for transmission to a wireless handheld computing device,

wherein the application software is configured to generate said second menu by utilizing parameters from the master menu file structure defining the categories, items, modifiers and sub-modifiers of the master menu such that the information comprising the second menu is synchronized in real time with analogous information comprising the master menu, wherein the

application software is further configured to format the second menu such that the second menu may include additional parameters to facilitate user operations with and display of the second menu on the display screen of a second graphical user interface integral with the wireless handheld computing device, said second menu and any additional parameters satisfying any applicable display constraints and conforming to any applicable specialized display characteristics of the wireless handheld computing device screen.

104. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to automatically generate and transmit the second menu from the master menu.

105. (Previously presented) The information management and synchronous communications system in accordance with claim 104, further configured to automatically generate and transmit the second menu from the master menu in response to at least one of a predetermined time, or the occurrence of an event or a change in the master menu.

106. (Previously presented) The information management and synchronous communications system in accordance with claim 103 wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

107. (Previously presented) The information management and synchronous communications system in accordance with claim 103 further configured to transmit user selections from the second menu to a receiving computer by wireless link or via the internet.

108. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured such that user

selections from a second menu on the wireless computing device are automatically reflected in all other storage or display elements of the system.

109. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to automatically format the second menu for display as cascaded sets of linked graphical user interface screens appropriate for the display characteristics of the wireless computing device.

110. (Previously presented) The information management and synchronous communications systems in accordance with claim 103 in which the modifiers and sub-modifiers in either the master or second menus may be further configured to be either required or not required.

111-114. (Canceled).

115. (Previously presented) The information management and synchronous communications system in accordance with claim 103 in which the wireless computing device is a smart phone or other consumer wireless communications device.

116. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured to facilitate payment processing from the wireless handheld computing device.

117. (Previously presented) The information management and synchronous communications system in accordance with claim 103, further configured such that both the master and the generated second menus reflect a billing summary to facilitate processing of payments for an order on the wireless handheld computing device.

118. (Previously presented) An information management and synchronous

communications system for generating and transmitting hospitality menus comprising:

a. a central processing unit,

b. a data storage device connected to said central processing unit,

c. an operating system including a first graphical user interface, said operating system configured to interoperate with the central processing unit, the data storage device and application software,

d. a master menu including menu categories and menu items, wherein said master menu is capable of being stored on said data storage device,

e. a modifier menu capable of being stored on said data storage device, and

f. a sub-modifier menu capable of being stored on said data storage device,

wherein the application software is configured to generate a second menu for transmission to a wireless handheld computing device, wherein the application software is configured to generate said second menu by utilizing parameters from the master menu file structure defining the categories and items of the master menu, modifiers from the modifier menu and sub-modifiers from the sub-modifier menu such that the information comprising the second menu is synchronized in real time with analogous information comprising the master, modifier and sub-modifier menus,

wherein the application software is further configured to format the second menu for use and display on the display screen of a second graphical user interface integral with the wireless handheld computing device in conformity with any applicable display constraints of such second graphical user interface of the wireless handheld computing device, and

wherein the application software is also configured to format the second menu for user

operations and display on the display screen of the second graphical user interface of the wireless handheld computing device such that the second menu as displayed on the second graphical user interface appears to a user to be substantially similar to the first menu as displayed on the first graphical user interface.

119. (Previously presented) The information management and synchronous communications system in accordance with claim 118, further configured to automatically generate the second menu from the master menu, the modifier menu and the sub-modifier menu.

120. (Previously presented) The information management and synchronous communications system in accordance with claim 118, wherein the second menu relates to hospitality applications including at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

121. (Previously presented) The information management and synchronous communications system in accordance with claim 118, further configured such that user selections from a second menu on the wireless computing device are automatically reflected in all other storage or display elements of the system.

122. (Previously presented) An information management and synchronous communications system for use with wireless handheld computing devices and the internet comprising:

a. a master database connected in said system and configured to store hospitality application information pursuant to a master database file structure,

b. at least one wireless handheld computing device connected in said system and configured to display said hospitality application information,

c. at least one web server connected in said system and configured to display said hospitality application information,

d. at least one web page connected in said system and configured to display said hospitality application information, and

e. a communications control module linking the master database, wireless handheld computing device, web server and web page,

wherein the system is configured to utilize parameters from the master database file structure to synchronize the hospitality application information in real time between the master database, at least one wireless handheld computing device, at least one web server and at least one web page such that substantially the same information comprising the hospitality application information is capable of being displayed on the wireless handheld computing device, at least one web page and other display screens of the synchronized system, such that the hospitality application information is synchronized between any connected users, wherein the communications control module is configured to act as an interface between the elements of the system and any applicable communications protocol and wherein the system is configured to format the hospitality application information for display on both the wireless handheld device and web page in conformity with any applicable display constraints of the wireless handheld computing device or web page.

123. (Previously presented) The information management and synchronous communications system of claim 122, wherein the hospitality application information relates to at least one of restaurant service, or point of sale systems, or reservations, or waitlists, or ordering, or customer affinity or frequent customer programs.

124. (Previously presented) The information management and synchronous communications system of claim 122, further configured to automatically communicate selections made from a menu on at least one web page or at least one wireless computing device and transmitted over the internet to either the master database or at least one wireless handheld computing device or at least one web page.

125. (Previously presented) The information management and synchronous communications system of claim 122, further configured to automatically communicate selections made from a menu on at least one wireless handheld computing device to either the master database or the web server.

126. (Previously presented) The information management and synchronous communications system in accordance with claim 122, wherein the hospitality information relates to payment processing.

127. (Previously presented) The information management and synchronous communications system in accordance with claim 122, wherein the wireless handheld computing device is a smart phone or other consumer wireless communications device.

REMARKS

Claims 1-102 were previously canceled without prejudice or disclaimer by preliminary amendments filed in this application on April 22, 2005 and September 25, 2007. Claims 103-105, 108, 110, 114, 117-119, 121, 122, 124 and 125 were amended by amendment dated May 28, 2008. Claims 111-114 are canceled by the present Amendment. Claims 103-110 and 115-127 are now pending in the application.

In a non-Final Office Action dated December 15, 2008, claims 103-127 were rejected under 35 U.S.C. 103(a) as being unpatentable over Micros Systems Inc. POS Configuration User's Guide: 3700 POS in view of USPN 6,973,437 to Olewicz and further in view of US PG Pub 20020059405 to Angwin.

First, the Olewicz and Angwin reference priority dates are actually later than the invention date to which the present claims are entitled (as confirmed by the inventor's Rule 1.131 Declaration submitted herewith). As such, all of the rejections should thus be withdrawn. The Applicants also assert that, irrespective of the priority dates of the asserted references, the Examiner applied a number of disparate references for which no basis, suggestion or reason has been shown for the combination as urged by the Examiner to render obvious the invention as claimed. As fully explained below, each of the applied references is not pertinent to Applicants' invention as claimed and/or teaches away from the invention as claimed. Each of the applied references suffer from infirmities vis-à-vis a description of the elements of the pending claims and none of the references alone, nor even the references when combined, render the pending claims obvious when combined with the knowledge of a person skilled in the art. Moreover, the

knowledge of a person skilled in the art at the time of the invention would not have sufficed to fill the large gaps in the reference teachings or otherwise provide a reason to combine the references in the manner suggested by the Examiner. However, in addition to the fact that none of the applied references, either together or separately, render the claimed invention obvious, the Olewicz and Angwin reference priority dates are later than the invention date asserted for the present claims as discussed below and confirmed by the Rule 1.131 Declaration submitted herewith and as such the Applicants respectfully request that the rejections be withdrawn.

I. DECLARATION ANTEDATING OLEWICZ AND ANGWIN REFERENCES

A 37 CFR 1.131 inventor's declaration antedating the Olewicz and Angwin references is submitted herewith. The Olewicz priority date is apparently June 29, 1999 (note that the Olewicz priority provisional application appears to have been filed on June 29, 1999, even though the filing date is listed as June 9, 1999 on the issued patent). The Angwin priority date is apparently June 17, 1999. As detailed in the inventor's declaration, the presently-claimed invention was conceived at least as early as August 1998 and reduced to practice as early as November 14, 1998 in connection with the introduction to the public of subject matter embodied by the present claims at a major Hospitality Technology Show in Atlanta, Georgia. Moreover, the inventors continued development of their invention toward commercialization on a constant and diligent basis up to the filing of the priority application on September 21, 1999. Applicants therefore respectfully request withdrawal of the pending rejections since the remaining applied reference, the Micros 3700 manual, alone does not teach or suggest all of the claimed elements

of each of the pending claims (as admitted by the Examiner) and a person skilled in the art would not have known how to make the invention from the teaching of the Micros reference.

II. THE MICROS REFERENCE DOES NOT TEACH OR SUGGEST ALL OF THE CLAIM ELEMENTS ASSERTED BY THE EXAMINER

In 1998, the date attributed to the Micros reference by the Examiner, the inventors of the present application conceived of leveraging GUI-based hospitality information or data (e.g., parameters defining modifiers/sub-modifiers and other parameters) from a master or central database for, inter alia, the synchronous, real time generation and transmission to or from other components of the system, and which was displayable dependent on the specialized and unique display characteristics and constraints of each system node or device type, e.g., for wireless handheld computing devices. The result of Applicants' invention was the first hospitality solution to, inter alia, achieve and maintain overall consistency of data across all connected system nodes at any given time and to account for the specialized user interface requirements of wireless handheld computing devices. Nothing in the prior art, including the Micros reference, taught or suggested such an approach.

The inventors of the present claims understood that to achieve full integration of a hospitality system including different display devices, a synchronous system would have to be capable of accommodating different display size and format requirements and be capable of converting the data stored on the central database, leveraging the data parameters from the central database and generating and transmitting data to each individual system node in a format that could be displayable, useful and actionable on that particular device. Such usability is a function of aspects unique to the hospitality market including, for example, the need for linked

cascading, custom menus with modifiers, sub-modifiers and other specialized user interface requirements for a particular hospitality environment. The inventors likewise appreciated that user inputs from these nodes would also have to be formatted and recognized by the synchronized system to be the same as if they had been entered into the system from any other node in the system – otherwise the system would be dealing with inconsistent information and this would not be an integrated, synchronized system. The Micros reference describes nothing more than a client/server system for use with homogeneous elements, e.g., a menu on the server/database would be displayable on each of the display components exactly the same because the display constraints of all of the components were substantially the same and as such there was no need for any menu conversions or generation of any "second menus" for, e.g., a handheld display. The Micros reference is entirely devoid of any appreciation, teaching or suggestion of the need to "generate and transmit" a "second menu" from the "master menu" and to integrate heterogeneous display components, e.g., handheld displays and standard PC terminal screens, to achieve a completely synchronized hospitality system as reflected in the presently-claimed invention.

Specifically, independent Claims 103 and 118 recite "application software configured to generate a second menu for transmission to a wireless handheld computing device, wherein the application software is configured to generate said second menu by utilizing parameters from the master menu file structure . . . ." The passage from the Micros reference cited by the Examiner as allegedly teaching this limitation does not, however, have anything to do with generating a "second menu" from a master menu file structure for transmission to a wireless handheld computing device. The Examiner mistakenly equated the mere linking of

peripheral hardware devices (e.g. a printer or a CRT display/touchscreen) to a particular computer workstation of the system, as discussed by the Micros reference, with the "generation and transmission" of a "second menu" for the specialized display requirements of a handheld device as presently claimed. The passage quoted from the Micros reference, i.e., "[u]se the User Workstations form to assign touchscreens, options, order devices and printers to each UWS. Option Settings can be customized for each UWS" has nothing to do with, inter alia, hospitality menus, handheld menus or "generating and transmitting" menus. The cited passage from the Micros reference merely relates to workstation configuration attributes (much the same as the setup of, for example, a home PC, wherein the user can link the PC to, e.g., a scanner, monitor, or printer and define their hardware attributes). The cited passage from the Micros reference has nothing to do with the generation of a specialized menu from a master menu file structure and transmission to the specialized device. The presently-claimed invention is directed to, inter alia, facilitation of mobile ordering by leveraging of GUI-based information or data from a master/central database for synchronous generation, transmission and display (as appropriate) on various nodes of a hospitality system. Micros describes a fixed POS system with similarly configured, e.g., standard PC type displays, but the Micros reference did not envision integration of a fixed POS system with a mobile, wireless system including devices having different display/size characteristics and a synchronous, real time system solution to maintain same in the manner claimed.

Independent Claims 103 and 118 further recite "such that the information comprising the 'second menu' is synchronized in real time with analogous information comprising the master menu . . ." The Examiner cited a passage from Page 3-8 of the Micros

reference which refers to turning "caching" on or off as meeting this limitation. According to the cited passage, when caching is not selected, "changes are posted to the database immediately (upon saving)." The Applicants respectfully disagree with the Examiner's interpretation of this passage as applied to the presently-claimed invention. The "caching" discussed in the Micros reference does not relate to real time synchronization of information across a synchronous communications network of connected devices comprising a "second menu" with analogous information comprising the master menu as presently claimed. The Examiner mistakenly equated the immediate posting of changes to the database unless caching is enabled (as described in the cited Micros passage) with the inventive real time generation and transmission of a "second menu" from a master menu file structure across an entire network of connected, wireless and internet linked devices (as presently claimed). The passage quoted from the Micros reference has nothing to do with, inter alia, generating and transmitting "second menus" from a master menu wherein the generated "second menu" is synchronized in an entire network with analogous information comprising the master menu and, as previously stated, the Micros reference did not even envision the generation of a "second menu" in the first place. The cited passage from the Micros reference relates to configuration attributes entered via forms and their storage either in cache or the database depending on the option selected. To the extent menus are modified via these forms (if at all) , the modification is to the menu stored in the fixed database, which is exactly the same menu displayed on the various other workstations – thus there is no teaching or suggestion in the Micros reference of the generation of a new, different, "second" menu from the master menu file structure stored on the database. The immediate updating of a database with the information entered on such a form does not, however, relate in any way to the real time

generation and synchronization of information comprising a "second menu" with analogous information comprising the master menu. The Micros reference describes a system wherein a single menu only is distributed from a server to client workstations, but because the workstations are standard PC-type devices, the master menu is configured for display thereon without the need for the inventive generated and transmitted "second menus" (configured to satisfy device-specific display requirements). It is clear from the Micros reference that touchscreens are created only for standard PC-type devices and the menu stored on the database is displayed via the touchscreens; thus there is no need for any re-configuration and conversion of the database menu file structure for display of a menu on the PC-type device screens because the touchscreen configurations stored on the database are designed specifically for PC-type display devices. (See Micros pages 3-28, 4-25, 4-26 and 4-27). The Micros reference thus teaches away from the generation of a "second menu" for specialized display on a handheld screen having vastly different and far more limited display parameters than a standard PC-type device screen. The Micros reference does not suggest or teach the generation, transmission or use of handheld devices or "second menus" nor does the cited passage from the Micros reference have anything to do with the generation of specialized "second menus" from a master menu file structure and synchronous, real time transmission to and with any kind of device, handheld or otherwise.

The Examiner stated that Micros further teaches the limitation of independent claim 118 directed to the requirement that the "second menu" (which is generated from the master menu but is configured for display on a handheld device) appears to a user to be substantially similar to the master menu as displayed on the first GUI. This recitation in claim

118 adds the requirement that the logic in the system needs to not only format the "second menu" so that it is displayable on the other specialized displays, but also that the system logic needs to produce the "second menu" so that it is as consistent in user interface as possible with the master menu. This additional, unique aspect of the invention is applicable to minimizing waiter/server training in restaurant POS environments since some staff use the fixed POS systems and some use handhelds but all staff members need to be able to easily and seamlessly move from one user interface to the other. As Micros does not teach or suggest synchronous, real time generation and transmission of a "second menu" from a master menu file structure nor the usage of handheld devices, as discussed above, Micros thus cannot teach or suggest the generation of a "second menu" such that the "second menu" appears substantially similar to the master menu displayed on the first graphical user interface, nor was there any reason for a person skilled in the art to supply the missing element. Claim 118 is thus believed allowable on this additional basis vis-à-vis claim 103.

Nor does the Micros reference ever mention reservations, waitlisting, customer frequency, etc. as encompassed by various of the present claims, including claims 106, 120 and 122-127. The Micros reference simply describes extending the same GUI from a fixed POS system to more displays of substantially the same size/orientation/layout and that is not the subject matter of the present claims nor does the Micros reference suggest the presently-claimed invention. Claims 103 and 118 are directed to leveraging data that is displayable on one GUI for display on a second, different GUI, and synchronizing the information in real time between the separate nodes - even though the display constraints and parameters of the different GUIs are very different.

Applicants respectfully submit that the rejections should therefore be withdrawn as to all of the pending claims based on the above distinctions over the Micros reference.

III. THE OLEWICZ REFERENCE DOES NOT MEET THE CLAIM LIMITATIONS EVEN IF IT WERE AVAILABLE AS PRIOR ART

The Examiner cited the Olewicz reference as teaching a wireless handheld computing device corresponding to some of the claim elements as presently claimed in all pending claims. The Examiner appears to have read aspects of the Olewicz patent as synonymous with the Applicants' claimed invention, e.g., an integrated, synchronized menu and ordering system comprising a master menu file structure from which a handheld menu is "generated and transmitted" to the wireless device with its unique display characteristics. The Examiner's combination of Olewicz with Micros has no sound basis. Initially, as discussed above, the Olewicz patent is not prior art to the present application and claims because the Applicants have established an invention date prior to the earliest claimed priority date for the Olewicz patent. Moreover, the Examiner's apparent reading of the Olewicz patent is unjustified even if Olewicz were available as prior art against the present claims.

First, Olewicz does not teach or suggest a real time, synchronous menu/ordering system. In col. 9, lines 7-12 and col. 12, lines 24-27 of the Olewicz reference, and in the flow charts as step 114, it is admitted that the ordering devices do not "know" whether the items sought to be ordered from the menu are available when the order is entered ("waiter will know immediately after sending the order if the food ordered is still available. If the food is not available, the computer will send the order back to the waiter instead [of] to the kitchen, and allow the waiter to retake the order and send it again."). The salient word is "after" (which

means that the menu presented to the waiter is not generated synchronously in real time from a master menu file structure on a central database). The Olewicz reference thus actually teaches away from a real time, synchronous system as presently claimed.

Further, Olewicz refers to a primary function of the device described therein as "Up/Down Scroll" (see, e.g., col. 10, lines 2-4) ("The Up/Down Scroll: this will allow the waiter to scroll up and down the selected lists such as: consumer request, food orders, or other."). This is yet another very significant teaching away from the claimed invention. Scrolling is a very poor technique for displaying information on devices having limited display attributes such as small screen size, however, because such an approach is painstakingly slow for operators and largely ineffective in a hospitality application. The presently claimed invention, inter alia, eliminates the need to rely on scrolling in the display of menu information on small screen devices. The generation of a "second menu" specifically configured for the handheld device user interface screen from a master menu file structure as claimed substantially eliminates the need for such scrolling because the menu screens of the "second menu" are generated specifically to satisfy the display constraints of the handheld display screen; i.e., the generation of cascading and linked menu screens unique for the handheld device substantially eliminates the need for scrolling because each screen fits properly on the display device and additional user screens are created and linked appropriately to provide a coherent, user friendly menu flow for the particular display device. In one embodiment of the presently claimed invention, the need for scrolling to display an entire screen of menu options can be entirely eliminated because each menu screen can be configured to accomplish that purpose within the display constraints of the target device. However, it should be appreciated that any combination of the inventive menu generation as

claimed, even with some degree of scrolling, falls within the scope of the present claims. The inclusion of "scrolling" by Olewicz as a primary means to display an entire list of options thus further indicates that Olewicz did not appreciate the inherent benefits of the presently claimed invention and that the teaching of Olewicz in fact teaches away from the Applicant's unique inventive solution. Further, even with "scrolling" and all of its limitations, Olewicz had no idea whatsoever of the many other critical aspects of the inventive technique, all of which are required to yield the total solution of the presently claimed invention.

The Examiner relied on the following statement from Olewicz as purportedly teaching a wireless handheld computing device: "Take Order function: displays restaurant's menu and specials. Using the touch screen/stylus pen type interface the waiter will be able to easily take orders and forward them directly to the kitchen." However, as discussed above, the mere teaching of the use of a wireless device does not teach or suggest the claimed invention. Displaying a menu on a handheld device and forwarding orders to the kitchen says nothing about how the menus were generated or even of the need for "second menus," and most certainly does not teach or suggest that such "second" menus were generated synchronously, in real time from a master menu file structure, and configured for the particular display characteristics of the target handheld device as presently claimed. Nothing in Olewicz even remotely refers to or suggests generating and transmitting "second menus" from a master menu file structure for display on a handheld computing device as presently claimed.

The Examiner further stated that "it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Micros with the teachings of Olewicz, as Olewicz teaches a system of real time menu display and order taking that would

improve the customer service of Micros by adding portability as well as accessibility." The passage from Olewicz quoted by the Examiner states only that "communication between customers and business staff is critical for compiling real time data and for tailoring advertisements to customers and time of day for improving customer service." Applicants respectfully submit that this passage in no way suggests the unique aspects of the claimed invention. Combining the teachings of Olewicz with Micros does not produce a real time system of handheld, "second menu" generation from a master menu file structure as presently claimed in Claims 103 and 118. Olewicz generically discusses ordering from remote wireless handheld devices, but Olewicz clearly failed to appreciate how the remote ordering solution of the presently-claimed invention was actually accomplished, i.e., by incorporation of a central/master database which drives the other system GUI based "second menus" operator interfaces through leveraging of the parameters in the central database to achieve synchronization of information or data across connected nodes of the system. Moreover, Olewicz failed to even appreciate the need for "menu conversions" in a synchronous system of disparate connected devices having different display characteristics; and thus Olewicz fails to teach or suggest the generation and transmission of "second menus", synchronously, to e.g., mobile wireless devices or the web. The "real time" aspect of Olewicz relied on by the Examiner had to do merely with the compiling of data related to improving customer service but there is no teaching or suggestion in Olewicz of real time, synchronous generation of handheld menus from a master database file structure as presently claimed. "[C]ompiling real time data" as described by Olewicz merely refers to the storing of data as it is created, which is entirely different from generating and transmitting custom, "second menu" displays throughout a synchronized system in real time.

Micros teaches nothing about handheld devices or integration of disparate GUI based operator interfaces having different display characteristics. Contrary to the Examiner's assertion, the combination of Olewicz and Micros thus does not teach or suggest real time "second menu" generation and display as presently claimed.

The Examiner further stated that Olewicz teaches the recitation of independent claim 122 directed to synchronization across both wireless handheld devices and the internet via a communications control module. However, claim 122 adds the explicit requirement that both handheld and web server/web page elements are connected and synchronized in the same system at the same time through a single "communications control module" acting as an interface between the elements of the system and any applicable communications protocol. Olewicz does not teach or suggest these elements nor provide any reason or motivation to add these additional elements to its teachings, nor was there any reason for a person skilled in the art to have known to supply the missing elements. Moreover, separate references cannot properly be combined to teach this claimed aspect because, by definition, separate references cannot teach nor suggest the connected and synchronized system comprised of multiple elements which the inventors uniquely conceived over ten years ago. The nature of the present invention was to, inter alia, maintain real-time consistency of information across disparate nodes with very different display characteristics and communications protocols in a synchronous, connected system. The Examiner has pointed to no suggestion, motivation or reason to combine Olewicz and the other cited references and, in fact, the separate references teach away from the present invention by virtue of the total lack of synchronization as claimed in any of the references. Also, Olewicz makes no mention of synchronous, real time reservations, waitlisting, customer frequency etc.

(which are encompassed by independent claim 122 and recited by several dependent claims). The reference to "wait times" being posted to a "restaurant internet website" in the cited passage from Olewicz has nothing to do with real time, synchronous waitlisting. It is merely a posting of historical service information. Without the present invention, a completely integrated and synchronized hospitality system is not possible and Olewicz did not teach or suggest such a system. Further, there is no mention in Olewicz of ordering and/or menus in the context of the internet, i.e. on-line ordering, which is also encompassed by independent claim 122 and several dependent claims. The only mention of the internet in Olewicz is in the context of corporate type reporting and as such did not even remotely envision, teach or suggest the subject matter of claim 122 and its dependent claims. Claim 122 is thus believed allowable on this additional basis vis-à-vis claims 103 and 118. Further, as previously stated in regards to the Micros reference, it did not teach the requisite unique aspects of claim 122 either.

The rejections should therefore be withdrawn as to all of the pending claims based on the above distinctions over the Olewicz reference.

IV. THE ANGWIN REFERENCE DOES NOT MEET THE CLAIM LIMITATIONS EVEN IF IT WERE AVAILABLE AS PRIOR ART

The Examiner cited the Angwin reference as teaching aspects of the recitations in claims 103 and 118 directed to the formatting of the "second menu" for display on the GUI of a wireless handheld computing device. First, Angwin is not directed to a "hospitality" application; the Applicants respectfully submit that after adding this claim limitation (based on the Examiners request at the April 22, 2008 interview), the Examiner's inclusion of a rejection based on a "non hospitality" reference was inappropriate and as such, the Angwin reference should be withdrawn

on this point alone. Further though, the Examiner relied on Angwin's teaching of a "services menu" as purportedly teaching this claimed limitation, and appears to have read Angwin's discussion of the display of such a "services" menu on a handheld device as synonymous with the Applicants' claimed invention, i.e., an integrated, synchronized hospitality menu and ordering system comprising a master menu file structure from which a handheld, "second" menu is generated and transmitted to the wireless device. The Examiner's combination of Angwin with Olewicz and Micros has no sound basis. Initially, as discussed above, the Angwin reference is not prior art to the present application and claims because the Applicants have established an invention date prior to the earliest claimed priority date for the Angwin reference. Second, as stated above, Angwin is not a "hospitality" directed application. Further, the Examiner's apparent reading of the Angwin reference is unjustified even if Angwin were available as prior art against the present claims and/or it was directed to a hospitality application.

The Angwin reference has nothing to do with the presently-claimed invention or hospitality menus in general. The Examiner may have cited this reference because of its use of the word "menu." However, the menus referred to by Angwin are not hospitality "second menus" for use on a handheld device which are synchronously generated from a master menu file structure. Angwin relates to primarily cell phone communication networks and the control of access to various authorized services such as voice telephony, text messaging, etc., by users/subscribers in such a network. For example, Angwin states "[f]or example, a user may have prepaid for 1 hour of use of a particular service. After that hour has expired, the user's services menu could be updated to remove that particular service from the services menu." (Para. 56). Angwin's use of the word "menu" to refer to access to such services has absolutely nothing

to do with restaurant/hospitality menus as presently claimed. The menu screens of the "second menu" as presently claimed are generated specifically to satisfy the specialized display constraints of the handheld display screen; i.e., cascading and linked menu screens unique for the handheld display device are generated including the creation and linking of additional screens vis-à-vis the master menu file structure to provide a coherent menu flow for the particular display device and the synchronous maintaining of consistency. Angwin's "services menu" in no way teaches or suggests such a menu generation system.

Angwin states that a services menu is a:

> [S]et of available services that the user may access from within the network environment in which the device currently resides (i.e., a services menu). Such a list of services may be provided, for example, as a Hyper-Text Markup Language (HTML) home page for networked computers, a Wireless Markup Language (WML) deck for smart phones and PDAs or a Speech Markup Language (SpeechML) of Voice Markup Language (VoXML) menu for voice-based devices. (Para. 5).

A services menu as described by Angwin is thus a list of available communications services which a remote device may access. Such a services menu is not at all analogous to a hospitality menu which includes, e.g., linked and cascading menu screens including categories, items, modifiers and sub-modifiers which may be selected to facilitate, e.g., food ordering.

Angwin further states with regard to the purpose for the described procedure:

> [T]he present invention provides for obtaining a services menu for a pervasive computing device without requiring the device to know in advance the location from which the services menu is to be obtained. Accordingly, a user of the device may simply connect to the network and the services menu may be automatically obtained without requiring the user to know the specifics of the network configuration to which the device is attached. (Para. 13).

If the procedure of Angwin was followed with respect to the provision of hospitality menus to remote devices, a user device would be connected to a network and every hospitality menu item would be listed (including multiple and different menus from different hospitality enterprises). Such a reading of Angwin's teaching is erroneous for multiple reasons. First, hospitality menus are not made available on a network as a communications service. Second, there is no reason to provide a listing of all available menus simply because a user connects a remote device into a network. A user or device seeking a particular hospitality menu will either know or use other methodologies to determine which hospitality menu is desired. For example, in the restaurant POS environment, the remote device will be configured to access the menu on the database associated with the POS network. In the smart/cell phone environment, a user will either know which menu is desired, use search or reviews/recommendations to converge on a particular menu or the device will be programmed to access a particular menu or menus using, e.g., widget technology. Angwin thus teaches away from the presently-claimed invention.

Moreover, the particular passage from Angwin relied on by the Examiner refers to generation of a services menu based on "a source address, the user identification, device information or the like." The passage relied on by the Examiner clearly does not teach or suggest the use of GUI based parameters from a master menu to create a second menu configured for the unique display requirements of hospitality menus as discussed above.

Further, Angwin states that remote device users must periodically send out a so-called "request services menu" message. (E.g., Para. 39). This also is a teaching away from the claimed real time, synchronized system in and of itself. In the presently-claimed synchronous,

real time system, no such "request services menu" message ever needs to be sent, since all linked devices are always synchronized with each other. Additionally, Angwin states "[f]urthermore, the services may be tailored based on other factors such as billing information, for example, if the use of services is to be prepaid or if different levels of services are provided to different customers." (Para. 40). This too is consistent with a cell phone network services type system and has nothing to do with a real time, synchronous hospitality system. Angwin teaches away further by stating "[f]urthermore, because the connection type may change from session to session, the menu of services may change from session to session." (Para. 40). The recitation of a "session" is an unassailable confirmation that Angwin's description is of a non-real time, non-synchronous system and is thus another teaching away from the claimed invention. Even further, in Para. 51 Angwin discusses "adding," "deleting," "changing" and "replacing" functions which all teach away from the presently-claimed invention directed to a master database driven system in which a change in any element of the system is synchronously reflected in all system elements.

The Angwin reference is thus entirely inapplicable to the hospitality menu environment and specifically is inapplicable to the invention claimed in independent claims 103 and 118, i.e., a system for synchronous generation and transmission of hospitality menu information between a master/central database and a wireless handheld device. And none of the other cited references (Micros and Olewicz) teach or suggest the claimed aspects missing from Angwin because none of the cited references is directed to synchronous generation and transmission of hospitality menu information between a central database and a wireless handheld device having unique display characteristics. There is thus no motivation or reason to combine

the teachings of Micros, Olewicz and Angwin, and even if there was a basis to combine these references the combination does not teach or suggest the invention as claimed nor would a person of ordinary skill in the art have been in possession of the missing elements.

Further, Angwin fails to even recognize the additional characteristics of an overall synchronized hospitality system including such additional hospitality applications including reservations, wait-listing, frequency etc. and Angwin doesn't even mention the internet or web pages. Angwin is thus not applicable to claims including these features, including claims 106, 120 and 122-127.

The rejections should therefore be withdrawn as to all of the pending claims based on the above distinctions over the Angwin reference.

V. NUMEROUS DEPENDENT CLAIMS ARE INDEPENDENTLY PATENTABLE OVER THE CITED REFERENCES

The dependent claims are believed to be allowable on the same bases as independent claims 103, 118 and 122 as discussed above. Applicants also disagree with the Examiner's positions regarding the cited references with respect to various dependent claims as follows.

The Examiner cited the Micros reference description of setting a memory cache on or off as teaching the recitation of claims 104 and 105 that the system is configured to automatically generate and transmit the second menu from the master menu. However, as discussed above, the cited passage from Micros is inapt. Micros does not teach or suggest generating a "second menu" from a master menu file structure for transmission to a wireless

handheld computing device, and thus Micros does not teach or suggest the automatic generation and transmission of such a menu. This rejection should therefore also be withdrawn.

The Examiner cited the Micros reference description of "[d]istinguish[ing] between menu items ordered in different meal periods (such as Breakfast, Lunch, and Dinner)" as teaching the recitation of claim 105 that the system is configured to automatically generate and transmit the "second menu" from the master menu in response to at least one of a predetermined time, or the occurrence of an event or a change in the master menu. However, as discussed above, Micros does not teach or suggest generating a "second menu" from a master menu file structure for transmission to a wireless handheld computing device, and thus Micros does not teach or suggest the automatic generation and transmission of such a menu in response to the recited criteria. This rejection should therefore also be withdrawn.

The cited passage from Micros relied on by the Examiner as teaching the recitations of claims 106, 120 and 123 is not applicable to the claimed subject matter. These dependent claims further recite that the hospitality applications include at least one of restaurant service, point of sale systems, reservations, waitlists, ordering, customer affinity or frequent customer programs. The mere fact that Micros describes a client/server architecture is no basis for attributing to such an architecture, e.g., the generation of a "second menu" unique to the display characteristics of handhelds or the synchronization of such hospitality information between a central database, handhelds and the internet as presently claimed. The Micros system was merely a central terminal with connected dumb terminals which all used the same standard PC type screens. The Micros reference does not teach or suggest the claimed synchronous, real

time system incorporating handhelds and the internet directed to the enumerated hospitality applications. This rejection should therefore also be withdrawn.

The cited passage from Micros relied on by the Examiner as teaching the recitations of claims 110 and 119 is not applicable to the claimed subject matter. These dependent claims further recite that the modifiers and sub-modifiers in either the master or second menus may be further configured to be either "required" or "not required." It is true that the Micros reference relates to a POS system which, like most "fixed" POS systems, allowed for "required" or "not required" modifiers and sub-modifiers. However, these functions are special parameters which directly impact the logic flow and user interface linkages of a menu system, fixed or otherwise. Incorporation of such functionality in a handheld menu requires the creation of cascading links of a significantly greater number of smaller screen menus unique to the display characteristics of handhelds and thus the logic flow linkages have to be adapted in the "second menu" generation to reflect and maintain these new linkages and flows. Having this basic menu feature on a fixed POS system does not translate straightforwardly to handheld/smart phones since the particular menu pages and button links for the handheld menu are substantially different vis-à-vis the master menu. This rejection should therefore also be withdrawn.

The Examiner cited the Olewicz reference description of using a touch screen/stylus pen type interface to take orders and forward to the kitchen as teaching the recitation of claims 107 and 125 that the system is configured to transmit user selections from a "second menu" to a receiving computer by wireless link or the internet. However, as discussed above, Olewicz does not teach or suggest generating a "second menu" from a master menu file structure for transmission to a wireless handheld computing device (or the internet), and thus

Olewicz does not teach or suggest the making of selections from such a menu or the transmission of such selections to a receiving computer. This rejection should therefore also be withdrawn.

The Examiner also cited the Olewicz reference description of using a touch screen/stylus pen type interface to take orders and forward to the kitchen as teaching the recitation of claims 108, 121 and 124 that the system is configured such that user selections from a "second menu" on the wireless computing device or web page are automatically reflected in all other storage or display elements of the system. However, as discussed above, Olewicz does not teach or suggest generating a "second menu" from a master menu file structure for transmission to a wireless handheld computing device (or the internet), and thus Olewicz does not teach or suggest the making of selections from such a menu, the transmission of such selections to a receiving computer or the automatic reflection of such selections in all other storage or display elements of the system. This rejection should therefore also be withdrawn.

The Examiner cited Olewicz as teaching the recitation of claim 109 that the system is further configured to automatically format the "second menu" for display as cascaded sets of linked graphical user interface screens appropriate for the display characteristics of the wireless computing device. However, there is no teaching in Olewicz of a "second menu" generated from a master menu and synchronously transmitted to a wireless device or how such a "second menu" would be generated even if the need to do so had been appreciated by Olewicz, which it was not. Moreover, as discussed above, the Olewicz scrolling function teaches away from this claimed aspect as does the admission in Olewicz that smart phone devices (in the limited system concept described therein) have only "limited functionality." This rejection should therefore be withdrawn.

The Examiner applied the Olewicz patent against the recitations of claims 115 and 127 that the wireless computing device is a smart phone or other consumer wireless communications device. As discussed above, Olewicz teaches away from the claimed synchronous, real time system involving, e.g., hospitality "second menus" generated for handheld devices or the internet by admitting that a full solution for smart phones was not disclosed as part of the Olewicz system. Further, as previously stated, the aspects of the Micros reference necessary to in combination support the rejection of this claim cannot be found in that reference. The rejections of claims 115 and 127 should thus be withdrawn.

* * *

Neither of the cited references, either alone or in combination, describe or suggest the presently-claimed aspects of the Applicants' claimed information management and synchronous communications system, nor would a person of ordinary skill in the art have known to supply either of these aspects missing from the descriptions of the cited references. Moreover, for at least the reasons stated above, there is no basis for imputing knowledge of either of the presently-claimed aspects to a person of ordinary skill in the art or for combining any such imputed knowledge with either of the cited references. Further, the art made of record but not relied on by the Examiner in making the claims rejections does not supply the claimed aspects which are missing from the descriptions of the applied references, nor would the knowledge of a person skilled in the art combined with the art made of record supply the aspects missing from the cited references for the reasons stated above. The Applicants therefore believe the claims as presently presented are patentably distinguishable over the references of record, either alone or in combination.

An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

CONCLUSION

Based on the foregoing remarks and amendments, the Applicants respectfully request reconsideration and withdrawal of the pending rejections and allowance of this application. The Applicants respectfully submit that claims 103-110 and 115-127 are patentable and in condition for allowance. An early action passing this case to issue is therefore respectfully requested.

If any issues remain, or if the Examiner has any suggestions for expediting issuance of this application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below. Favorable and prompt consideration is requested.

AUTHORIZATION

Applicants believe that no additional fee is required as a result of the present Amendment. However, to the extent that any extension of time is necessary or any additional fees are required, Applicants hereby authorize the Commissioner to charge any additional fees, or credit any overpayment, to Deposit Account No. 13-4500 (Order No. 3125-4003US1).

Respectfully submitted,
MORGAN & FINNEGAN LLP

Dated: January 23, 2009

By: _____
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Docket No. 3125-4003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally, et al.	Group Art Unit:	2191
Filed:	April 22, 2005	Examiner:	Brophy, Matthew
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE MODIFICATION OF ORDERS

DECLARATION UNDER 37 C.F.R. § 1.131

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

Sir:

I, the undersigned, Keith R. McNally, declare and state that:

1. I am an inventor of the subject matter claimed in the above-identified patent application. I have first hand knowledge as to all of the facts, all of the referenced exhibits and all of the information contained herein.

2. I make this Declaration to establish conception of the invention claimed in this application in the United States at least as early as August 1998, well prior to June 17, 1999, the filing date of U.S. Patent Publication No. 20020059405 to Angwin et al. ("Angwin publication") and June 29, 1999, the apparent priority date of U.S. Patent No. 6,973,437 to Olewicz et al. ("Olewicz patent") – both of which were cited by the Examiner against the pending claims of the present application—coupled with actual reduction to

practice of the claimed invention from September 1998 and subsequent constructive reduction to practice of the claimed invention as a filed U.S. patent application on September 21, 1999.

3. Prior to June 17, 1999, my co-inventors and I conceived of the subject matter of the invention claimed in this application. In short, the November 1998 21st Century Restaurant System Diagram and brochures, the offers for sale, the actual product demonstrations at the November 1998 FSTEC show and the numerous additional contemporaneous references discussed and detailed below, as well as our continual efforts to commercialize a product encompassed by the present claims illustrated the invention in sufficiently clear terms to demonstrate conception in the United States prior to June 17, 1999.

4. The invention claimed in the above-identified patent application was actually reduced to practice in or about November 1998 as detailed below. To the extent the November 1998 activities could possibly be deemed insufficient to establish reduction to practice of the claimed invention (notwithstanding the clear evidence demonstrating that the invention was actually reduced to practice in November 1998), additional evidence submitted herein regarding our activities subsequent to November 1998 shows clearly that the claimed invention was actually reduced to practice prior to June 17, 1999. The invention was thereafter constructively reduced to practice on September 21, 1999.

5. From a period from September 1998 to September 1999, my co-inventors and I were diligent in working to reduce the invention to practice, both actually and constructively. During this period, both the actual and constructive reduction to practice of the claimed invention was active and reasonably continuous.

6. After conceiving the core inventive ideas encompassed in the pending claims of the present application in late summer 1998 (as part of preparations for a new generation of products to be introduced at the upcoming November 1998 FSTEC show), my co-inventors and I initiated and then continued the development effort and worked diligently at designing and developing an initial prototype of the claimed invention during the period from September 1998 to November 1998. We then introduced the invention and showed this first prototype and offered the product for sale to the public and to customers and partners at the Food Service Technology Show (FSTEC) in Atlanta, Georgia from November 14-16, 1998. Thereafter, we continued to make further refinements of a commercial embodiment of the claimed invention throughout the remainder of 1998 and well into 1999. Copies of actual photographs of us introducing, demonstrating, and offering for sale this invention and product, the "wizard" (our company's only software product at the time), in our large booth at the November 1998 show and numerous additional confirming documents substantiating our continual inventive activities based upon the "wizard" - up to an including our constructive reduction to practice are attached as exhibits. Our company's "wizard" products were the only software products under development at Ameranth from September 1998 thru at least September 21, 1999, and thus all of our software development activities, de facto, involved development of a commercial embodiment of the claimed invention. A detailed chronology of our invention activities as evidenced by contemporaneous documentation is provided in the following paragraphs.

7. Exhibit 1 is a copy of a photograph taken during November 1998 which shows the assignee of the present application (Ameranth, Inc.) actually demonstrating and offering for the first time to the public an embodiment of the claimed menu generation

and wireless/web data synchronization inventions. This embodying product was part of Ameranth's 21st Century Restaurant™ system. This product introduction and demonstration occurred in Atlanta, Georgia at the Food Service Technology (FSTEC) Show during November 14-16, 1998. Exhibit 1 is copy of a photograph of Ameranth's 20X20 foot booth within the show. All three inventors attended the show, however co-inventor William Roof left and returned to San Diego - after assisting with the set up of the system in Ameranth's booth. In the photograph (taken by co-inventor Richard Bergfeld), seated at the front table with his back to the camera is Dave Miller, founder of JTECH, Ameranth's paging system partner. Clockwise after Mr. Miller is Jeff Graham, CEO of JTECH, Keith McNally of Ameranth (co-inventor), Dan Drummond of Ameranth and then Jeff Tobin, the President of JTECH at the time. Looking toward the camera from one of Ameranth's system demonstration stations is Kathie Sanders, then Ameranth's Director of Marketing. In front of Ms. Sanders is a customer. Standing immediately to the right of Ameranth's booth, with his arms folded, is Ed Lyznick (now deceased) who was then Ameranth's Sales Director. Immediately to the right of Ms. Sanders and just above her head is the Systems Diagram of Exhibit 3 (which can be seen more clearly in Exhibit 2). Exhibit 3 was shown to and discussed with potential customers and partners at this show and Ameranth provided demonstrations of the initial prototype which embodied the claimed invention. The prototype demonstrated at the show was a working device which included aspects recited by the claims of the present application and, in concert with, inter alia, the Systems Diagram, included all aspects of the present claims. Ameranth demonstrated the capabilities of the invention at the show by live demonstrations of the prototype along with passing out copies of the system

diagrams and product brochures. The product brochures were handed out by Ms. Sanders at the demonstration stations and also were available for customers/partners to obtain through the brochure brackets along each of the four legs of the booth (most visible on the right booth leg). The computer screen to the left of Ms. Sanders' head is one of the stations where the product demonstrations were shown. Directly overhead are screen shots of the then planned Ameranth mobile ordering hardware device, which Ameranth intended at the time to source from Japan. While the photograph of Exhibit 1 is not marked with a date, it was unarguably taken at the FSTEC show of November 1998, since Jeff Tobin was no longer part of JTECH shortly after this show and regretfully, Ed Lyznick died of a sudden heart attack within days of this show.

8. Exhibit 2 is a copy of an additional photograph taken at Ameranth's 1998 FSTEC show product introductions. In this photograph, Ameranth's system diagram (Exhibit 3), including the core inventive elements of the claims of the present application, is clearly visible in the upper right of the center block within Ameranth's booth. This photograph clearly shows that the Ameranth "wizard" product was introduced and shown to the public at the FSTEC hospitality technology show in November 1998.

9. Exhibit 3 is a copy of Ameranth's 21st Century Restaurant™ System Diagram. This diagram was first exhibited at the November 1998 FSTEC show as confirmed by the photographs of Exhibits 1 and 2. The description contained within the diagram of Exhibit 3 encompassed the core inventive elements of Ameranth's later issued patents and the claims of the present application as embodied in Ameranth's "wizard" prototype and disclosure. Already, at this time, Ameranth had a working capability of the

invention and continued to diligently advance and refine the commercial embodiment of the invention subsequent to its introduction at the 1998 FSTEC show. Ameranth's invention uniquely recognized, for the first time, the need for an integrated and synchronized wireless/web hospitality system and that a breakthrough innovation (embodied in Ameranth's "IntraSet wizard" - shown on the screen of the center PC within the wireless communication center in the photograph of Exhibits 1 and 2) was needed to act as the central and master controller for the entire synchronized system. My co-inventors and I were the first to recognize that the system would need to integrate with POS systems, leverage and manage the database (including menu items, prices, orders, frequent customers etc), and seamlessly and automatically "generate and transmit" menus to touchscreen handhelds and the internet, as well as to place orders, conduct payment processing and integrate with other hospitality functions such as table management, reservations, waitlists, paging, valet, etc. All of these aspects which are recited in the pending claims of the present application are shown in the Systems Diagram of Exhibit 3.

10. Exhibit 4 is a copy of a letter dated December 30, 1998 to me from John Harker of Symbol, who met me at the November 1998 FSTEC show in Atlanta and observed Ameranth's software "wizard" products for the first time at the show. Symbol was very interested in Ameranth's "wizard" technology as an application for its wireless handheld devices and to meet the then unsolved need for a solution to "generating and transmitting" menus from fixed POS systems to mobile devices and then maintaining synchronization. The letter specifically refers to Symbol's interest in Ameranth's 21st Century Restaurant System. Follow up actions and meetings subsequent to this letter led to the signing of a strategic alliance agreement between Ameranth and Symbol, which

included the "wizard" invention as an essential aspect. The strategic alliance agreement, executed on February 3, 1999, is attached as Exhibit 7.

11. Exhibit 5 is a copy of a system diagram in my handwriting, (which conveyed the core elements of our invention, but from a slightly different perspective, primarily the "communications flows") and which was and is consistent with the original November 1998 system diagram. I made this drawing on or about January 1, 1999.

12. Exhibit 6 is the system diagram shown in Exhibit 5 after its conversion to a PowerPoint chart. As can be seen, this system diagram shows that my co-inventors and I were in possession of the subject matter of the pending claims of the present application. For example, the diagram of Exhibit 6 shows hospitality menu generation and transmission from a master/central database to wireless handheld devices ("wireless POS" in this figure) as encompassed by, e.g., present claim 103 and synchronization of hospitality information between a master/central database, wireless devices and the web as encompassed by, e.g., present claim 122.

13. Exhibit 7 is a copy of the strategic alliance agreement signed on February 3, 1999 between Symbol Technologies and Ameranth (with attached Exhibit A thereto). As discussed above, this agreement was a direct result of Ameranth's introduction of its inventions at the November 1998 FSTEC show. At that show, John Harker, then Symbol's Hospitality Market Director, was seeking the optimal systems integration partner for Symbol's new mobile handhelds. Ameranth demonstrated its "wizard" prototype and provided, inter alia, copies of the system diagram of Exhibit 3 to Mr. Harker at the FSTEC show. This document (which essentially represents a sale of our products) further confirms that my co-inventors and I had possession of the claimed

invention and were diligent in developing it for commercialization and/or continually working to reduce it to practice as evidenced by the selection of Ameranth's technology embodying the claimed invention by the world's largest rugged mobile device manufacturer within just six weeks of the FSTEC show. Notably, Paragraph 2(D) of the attachment of Exhibit 7 refers to Ameranth's provision of a "totally integrated system solution" to customers. Additionally, Paragraph 2(E) of the attachment of Exhibit 7 clearly reflects Symbol's recognition of the importance of Ameranth's "software wizard" invention and its relevance to both their planned Windows CE and Palm device introductions:

> Ameranth will modify its Software Wizard development environment to enable POS suppliers and/or the customers themselves to quickly develop hand-held POS applications for the CE screen of the 2700. . . . Ameranth will also provide a tailored version for the smaller screen of the 1700 . . . .

This Paragraph also reflected the recognition of the need for our invention to customize the "generated" handheld menus uniquely for the smaller sized screens of these handhelds as recited by, e.g., pending claim 103 of the present application. With the signing of this February 1999 agreement with Symbol, Ameranth then moved away from the previously targeted hardware device from Japan shown at the November 1998 FSTEC show and focused on integrating its products encompassed by the claimed invention with the new Symbol mobile devices. As made clear in the strategic agreement, Ameranth would continue development of its "Software Wizard" product for launch with Symbol's handheld devices at the upcoming May 1999 National Restaurant Association (NRA) show in Chicago. Note that the "pen and ink" handwritten changes/insertions in the

document attached as Exhibit 7 were made at the time of its signing.

14. Exhibit 8 is a copy of a press release announcing the introduction of Ameranth's updated 21st Century Restaurant™ System to include the Symbol Windows CE Device at the National Restaurant Association (NRA) show in Chicago, Illinois on May 22, 1999. The references in this press release to, e.g., "seamless integration" and "fully integrated software and hardware solutions" were with respect to Ameranth's provision of a solution involving the leveraging of central/master database information for generation of, e.g., menus for display on handheld devices and/or web pages and/or provision of a synchronized solution for hospitality applications between a central/master database, handheld devices and the internet as recited in various of the presently-pending claims. Also noteworthy in this press release was the inclusion of IBM and Microsoft as partners (in addition to Symbol) as well as our first/charter POS System partner, Hospitality Solutions International (HSI) – which had already placed a large order for our devices and for our "software wizard" development kit in March 1999, (thus further confirming that a commercially acceptable embodiment of the invention existed at that time) and further establishing reduction to practice of the claimed invention prior to June 17, 1999.

15. Exhibit 9 is a copy of a May 22, 1999 press release announcing the signing of Ameranth's first hospitality POS partner, Hospitality Solutions International ("HSI"), which adopted Ameranth's "wizard" technology and became a strategic partner of Ameranth as discussed above. The following passage from Exhibit 9, inter alia, reflects and further confirms that Ameranth's solution as of this date involved the leveraging of central/master database information for generation of, e.g., menus for

display on handheld devices and/or web pages and/or provision of a synchronized solution for hospitality applications between a central/master database, handheld devices and the internet as recited in various of the presently-pending claims:

> The 21st Century Restaurant System allows for wireless automation and integration of all restaurant processes including order taking, payment processing, inventory control, process control, wait-list management, table management, short and long range communications, and a host of other applications. Palm-in-hand control increases productivity, reduces costs and can dramatically improve customer service.

16. Exhibit 10 is a copy of a full page color advertisement in the May 1999 issue of the leading hospitality publication, Nations Restaurant News, in which Ameranth was advertising its new system to the public. While undated, the inclusion of Ameranth's actual booth number in the advertisement (which is only known shortly before the show) and the invitation for the public to visit Ameranth at that booth number at the NRA show demonstrates that the date of the advertisement was prior to the May 22, 1999 NRA show. The following passages from Exhibit 10, inter alia, reflect and further confirm that Ameranth's solution as of this date involved the leveraging of central/master database information for generation of, e.g., menus for display on handheld devices and/or web pages and/or provision of a synchronized solution for hospitality applications between a central/master database, handheld devices and the internet as recited in various of the presently-pending claims:

> [Y]ou can rely on Ameranth Technology Systems to be the Hospitality Industry's one source for advanced wireless and e-commerce integration.
>
> - Wireless handheld solutions operating on Microsoft's Pocket PC Platform

- Wireless Local and Wide Area Networks
- Customized B2B and consumer e-commerce Internet applications
- Integration of Legacy Systems and databases (including Point of Sale and Back Office Software.)
- Wireless technology such as handhelds, phones, and pagers.

Whether you're a single venue relying on a POS provider or a large chain with your own MIS team, Ameranth's approach ensures that you will benefit from the latest technological innovations without having to worry about compatibility or fragmented support.

17. Exhibit 11 is a copy of a drawing showing the layout of Ameranth's booth at the May 1999 NRA show. Note that Ameranth maintained the same basic booth configuration as at the FSTEC show of November 1998. However, the artwork was updated to reflect Ameranth's new advertising campaign including the model hired to assist with the advertising campaign referenced in Exhibit 10. The model was actually in Ameranth's booth at the May 1999 show and she operated and assisted with the demonstration of Ameranth's handheld computers to show how easy the solution was when Ameranth's "wizard" invention was included.

18. Exhibit 12 is a copy of the updated Ameranth 21st Century Restaurant™ system diagram introduced at the NRA Show in Chicago on May 22, 1999. This diagram was shown within Ameranth's booth and copies were widely distributed. This diagram maintains all of the core elements of the original system diagram (shown at the November 1998 FSTEC show), but depicts them somewhat differently and reflects the use of the new Symbol, Windows CE mobile devices in lieu of the previous

generation of mobile hardware devices. The diagram of Exhibit 12 reflects and further confirms that Ameranth's solution as of this date involved the leveraging of central/master database information for generation of, e.g., menus for display on handheld devices and/or web pages and/or provision of a synchronized solution for hospitality applications between a central/master database, handheld devices and the internet as recited in various of the presently-pending claims.

19. Exhibit 13 is a copy of an Ameranth wireless handheld product brochure. The product referred to in the brochure was a key element of Ameranth's overall 21st Century Restaurant System and was intended for the newly introduced Symbol Windows CE mobile device. This brochure was first made available at the NRA show on May 22, 1999. Note that while Ameranth had become a software company at this time in 1999 (based on the strategic alliance with Symbol signed in February 1999), Ameranth was responsible for assisting Symbol in making its mobile hardware device the dominant choice in the hospitality market. The following passage from Exhibit 13 reflects and further confirms that Ameranth's solution as of this date involved the leveraging of central/master database information for generation (see "projected" in the quote below) of, e.g., menus for display on handheld devices:

> For the first time, there is a mobile, handheld computer that has the same kind of broad applicability as a PC, allowing end-users to use the same device for virtually any application. And with Ameranth's Advanced Systems Integration, legacy and current generation applications can be projected easily from existing DOS, Windows, and NT environments into the mobile, wireless, CE environment, making it unnecessary to replace existing systems or to change systems providers.

20. Exhibit 14 is a copy of a publication called "Restaurant Show Daily"

from the Chicago, Illinois NRA show in May 1999. In this issue, Ameranth's wireless handhelds were mentioned as one of the most interesting things seen at the show by an actual restaurant customer, and this recognition was made with respect to thousands of different products in a wide range of areas of the hospitality industry. This is another confirmation of the breakthrough aspects of Ameranth's "wizard" inventions.

21. Exhibit 15 comprises a copy of a set of photographs from the May 1999 NRA show further verifying Ameranth's participation in the show. In the photographs numbered 201 and 202 Dan Drummond of Ameranth is shown along with John Harker of Symbol and an executive from COMTEC. In photograph 226, Kathie Sanders of Ameranth (far left), Keith McNally of Ameranth (third from the right) and four other customers/partners are shown.

22. Exhibit 16 is an article from Hospitality Technology magazine dated July/August 1999. Hospitality Technology was a leading publication at the time. The article described the debut of Ameranth's new products and partnerships at the NRA show of May 1999. The photograph at the top, which was taken at the NRA show, includes Keith McNally of Ameranth, Manny Negreiro, President of Ibertech (who had become Ameranth's second POS partner) and Bill Schwartz, President of Foodtrak, another Ameranth partner at the NRA show, as well as Larry Hausman, Publisher of Hospitality Technology magazine. The conclusion of this article referred to the "buzz" that Ameranth received from its exhibits on the floor at the NRA show. This was yet another confirmation of the breakthrough aspects of Ameranth's inventions.

23. Exhibit 17 is a copy of a July 15, 1999 press release announcing a strategic partnership between Food.com and Ameranth. This is relevant to the story

behind the development of the present invention for several reasons. First, just as Symbol saw Ameranth's "software wizard" technology at the November 1998 FSTEC show and then very rapidly chose to partner with Ameranth, the same thing occurred with Food.com after Food.com representatives saw Ameranth's product demonstrations and displays at the May 1999 NRA show in Chicago. Food.com's selection of Ameranth as its POS integration partner is especially significant because Food.com, previously known as "Cybermeals, Inc.," owned Cupps U.S. Patent No. 5,991,739 (which Ameranth's issued U.S. Patent Nos. 6,384,850; 6,871,325 and 6,982,733 were allowed over). Additionally, this time period was in the middle of the "dot com" period and companies such as Food.com had unprecedented access to capital. In fact, by this time Food.com had attracted nearly $100 million in investment capital. As such, for such a well-funded company, which was the number one "on line" ordering company in the world at that time, to have determined that it too needed Ameranth's "wizard" technology was yet another confirmation of the breakthrough aspects of the claimed invention.

24. Exhibit 18 is a copy of a July 26, 1999 press release announcing the Ibertech/Ameranth strategic partnership. Ibertech was the world's largest supplier of Windows based POS systems at the time, had seen Ameranth's 'wizard' products at the May 1999 NRA show, and thus Ibertech's selection of Ameranth as its wireless partner was yet another confirmation of the breakthrough aspects of the claimed invention.

25. Exhibit 19 is a copy of a memorandum which I sent to Ed Rothenberg on August 31, 1999. Mr. Rothenberg was the senior engineering executive for POS systems for Micros Systems, Inc. at the time. He and Micros had also expressed serious interest in partnering with Ameranth after the May 1999 NRA show - as had many other

companies as discussed herein. This memo clearly characterized the core inventive aspects of Ameranth's "wizard" technology and what its advantages would be for Micros:

> [O]ur "Menu Wizard" . . . enables the rapid creation of operator screens for the Windows CE Ultrapad. Essentially, we have a standard CE POS GUI we make available to POS partners, we assist them with importing their existing POS databases into this tool . . . . . and then very quickly . . . . . a wireless POS application can be developed- . . .
>
> We also will provide you our "communications wizard" that resides under Windows in the back office . . . that accepts incoming wireless messages, and/or internet orders (i.e. Food.com) . . . . . and translates and exchanges them with the host POS system i.e., Micros . . . even better . . . the "Menu Wizard" . . . will create **both** the Windows CE and HTML code from the same database inputs . . . . . so that when the "master POS" e.g., you guys changes a price and/or POS code and/or product availability status . . . the "communications wizard" . . . will update the wireless and web status automatically . . . . . and when you use our tool to develop the wireless POS equivalent of your system . . . . you will really be "killing tow [sic: two] birds with one stone" in that the web equivalent will be easy to do . . .

It is particularly noteworthy that this memorandum included, inter alia, one of the core aspects of the presently pending claims, i.e., the memorandum referred to a "master POS" which controlled the generation of handheld menu "screens" from "existing POS databases." The above-quoted passages from Exhibit 19 reflect and further confirm that Ameranth's commercially-offered "software wizard" products during this time period and the preceding 10 months involved the leveraging of central/master database information for generation of, e.g., menus for display on handheld devices and/or web pages and/or provision of a synchronized solution for hospitality applications between a central/master database, handheld devices and the internet as recited in various of the

presently-pending claims.

26. Exhibit 20 is a copy of an internal email memorandum dated September 13, 1999 (provided to Ameranth at that time by the author, Bob Nugent) reflecting Food.com's internal assessment of the uniqueness of Ameranth's "menu wizard" technology and shows why even a very large and well funded company such as Food.com chose to partner with Ameranth. While Mr. Nugent was innately a "non-technical" person (i.e., he was the marketing person at Food.com), even he came to appreciate the breakthrough aspects of Ameranth's invention when he stated:

> 1. Menu Wizard --- this is a tool which digitally constructs and updates restaurant menus. This [sic: the] benefits to us with this tool would be the following:
>
> > a) create and update menus faster with significant labor savings
> >
> > b) lower cost of maintenance (restaurant customers will be able to update and change specials themselves)
> >
> > c) exclusive rights to this tool (barrier to entry)
>
> 2. Communications Wizard --- this tool creates a standard that can be used to integrate with any POS terminal and establishes the online ordering protocol.
>
> 3. Reservations --- Food.com would have exclusive rights to the online reservation system. They would help us create a hybrid system that can connect with the POS but can also operate through a call center as we establish the POS integration.

This was yet another confirmation of the uniqueness of Ameranth's "wizard" technology, which was first introduced in a working prototype to the public in November 1998 and continuously commercially refined from that date forward until the constructive reduction

to practice eight days after this memorandum was written in the form of the filing of Ameranth's priority patent application.

27. Beginning in or about July 1999, I coordinated with our outside counsel to prepare a patent application directed to the presently claimed invention. To assist in preparing the application in a diligent manner, I spoke with outside counsel over the telephone, provided information used to prepare the application, exchanged information regarding the application with my co-inventors and worked with counsel to finalize and file the application. On September 21, 1999, our outside counsel filed the application in the U.S. Patent and Trademark Office ("USPTO"). My co-inventors and I subsequently submitted to the USPTO our declarations of inventorship and assignment of our rights in the invention to our employer. The present application is entitled to priority to the September 21, 1999 application.

28. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: January 22, 2009

Keith R. McNally

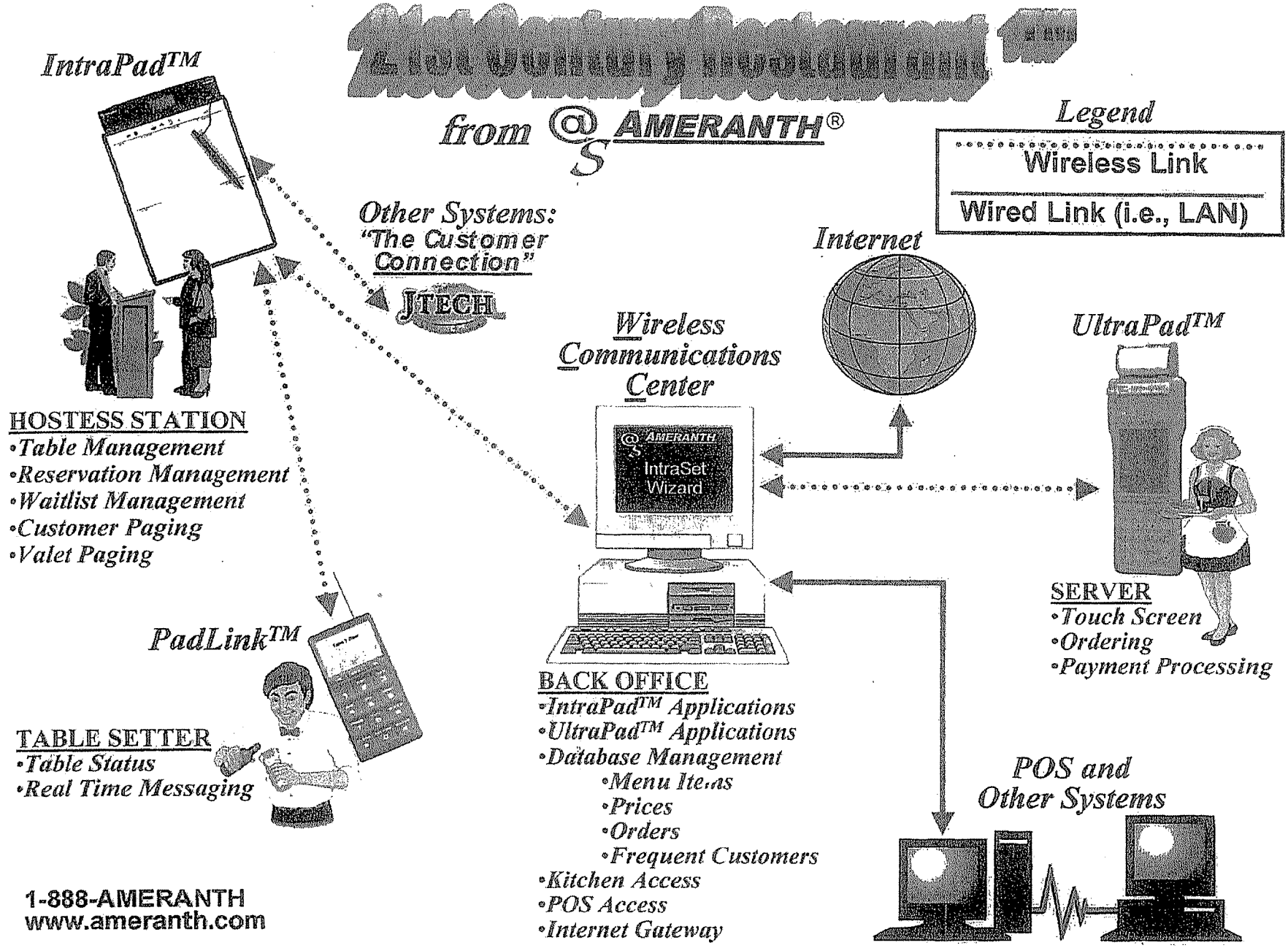
Exhibit 1

LAWSON
Management System
LAWSON
Software
21ST
Century

Exhibit 2

SAMSUNG

Exhibit 3



Apple, Exhibit 1012, Page 377

Exhibit 4

Symbol Technologies, Inc.
72 Colonel Enoch
Carmel, NY 10512

December 30, 1998

Keith McNally
Ameranth Technology Systems
16079 San Dieguito Road
Rancho Santa Fe, CA 92067

Dear Mr. McNally:

I want to thank you for your time the other day. Per our conversation, Symbol Technologies would like to have the opportunity to work with Ameranth. Symbol's Spectrum 24 Wireless LAN Technology, I believe, would be a great compliment to your 21st Century Restaurant System.

On January 18 - 20th, in New York City will be the National Retail Federation Show (NRF). Symbol will be exhibiting and will have conference rooms available to meet. I want to extend to Ameranth the opportunity to meet with Symbol Technologies, review our Mobile and Wireless products, and discuss how we might possibly work together. It would be a great opportunity to meet with Symbol Senior Executives and address your concerns of working with a Billion dollar company.

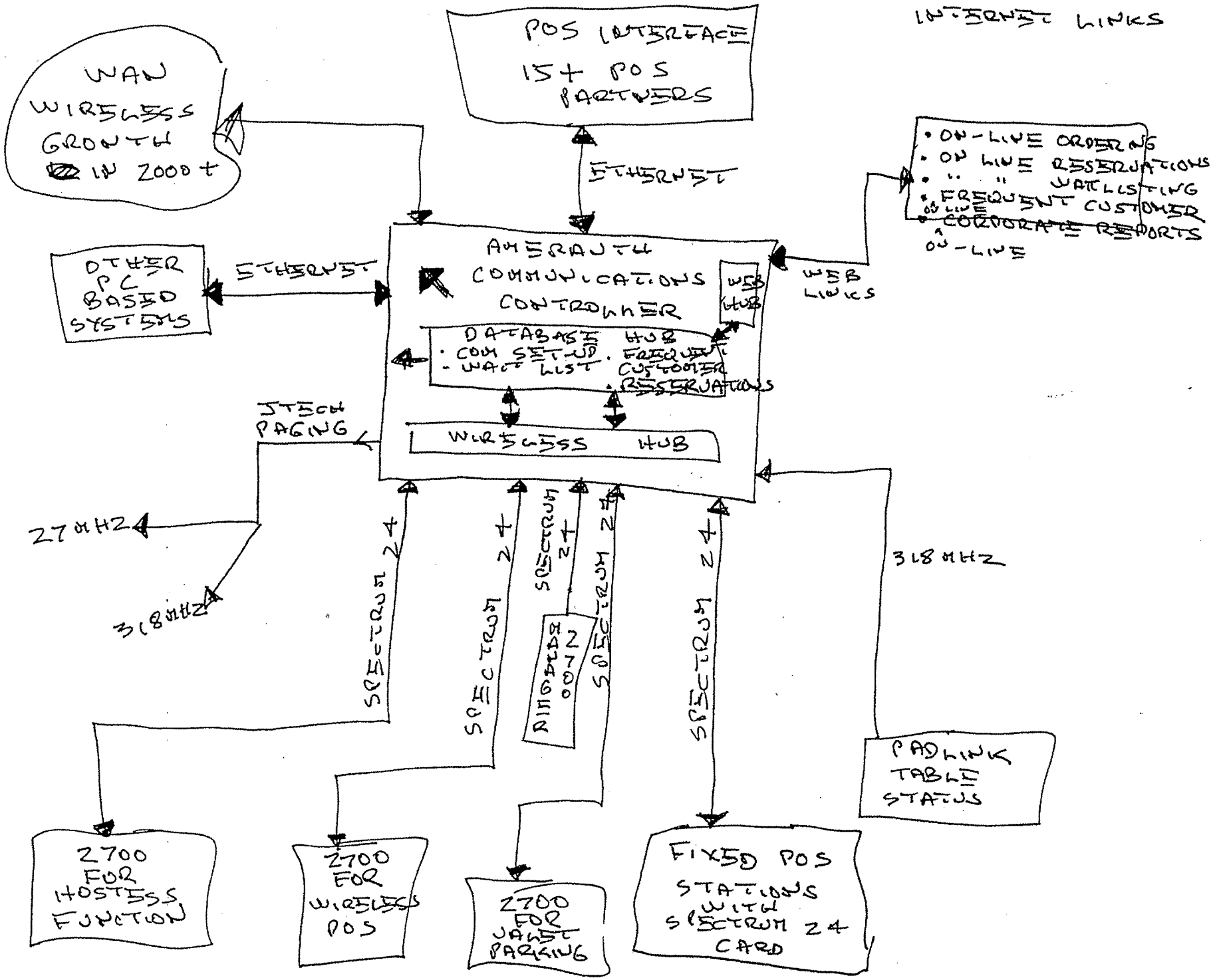
I look forward to meeting with you. I would like to target the 19th at Jacob Javitz to get together. Please call me to schedule a time convenient to you.

Very truly yours,

John V. Harker
Symbol Technologies

OEM Scanner Sales ◆ Phone: 914-277-2234 ◆ Fax: 914-277-2235 ◆ Internet: Harker@symbol.com
AMARNT.DOT

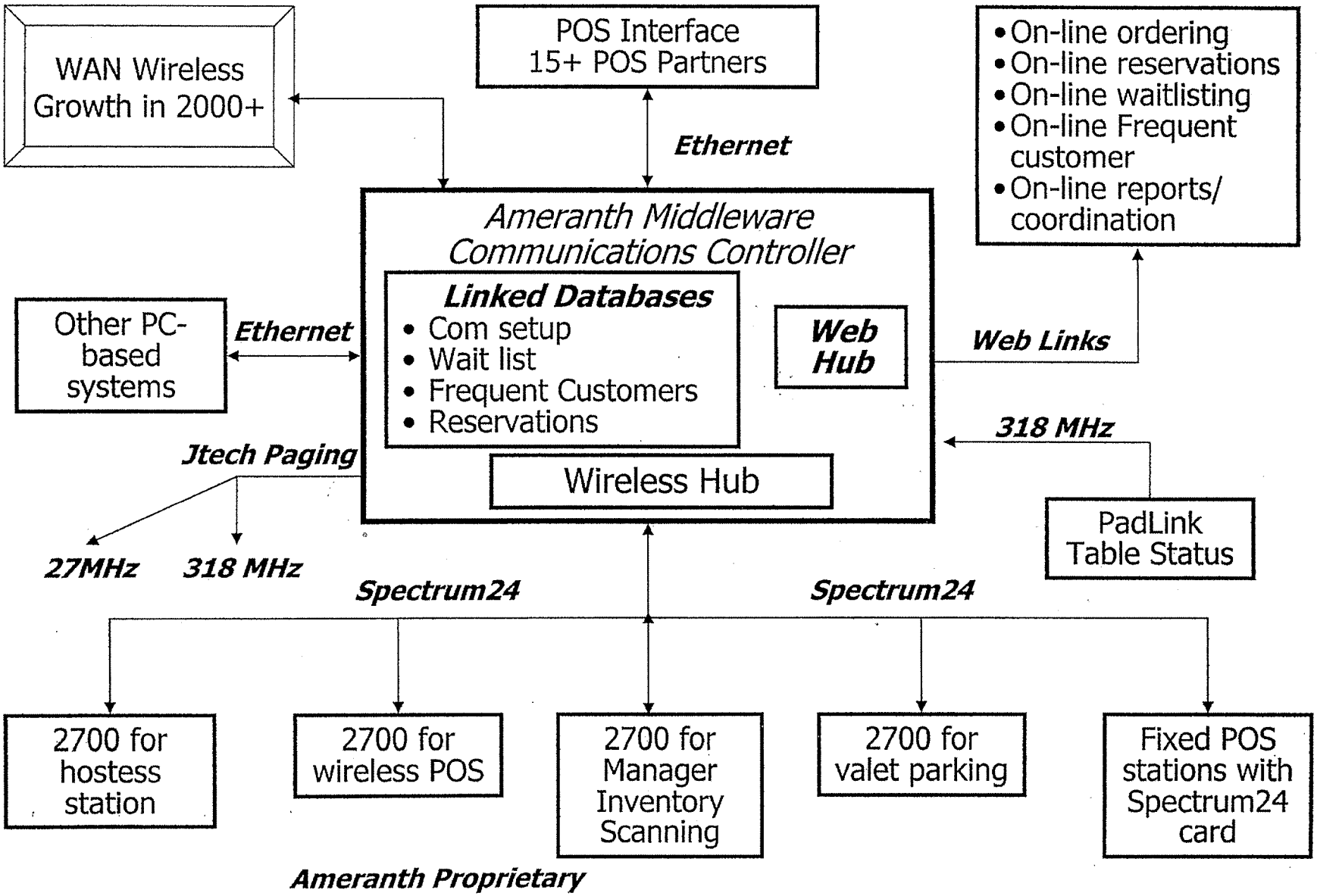
Exhibit 5



Apple, Exhibit 1012, Page 381

Exhibit 6

Ameranth 21st Century Communications Integration



Apple, Exhibit 1012, Page 383

Exhibit 7

PWRW&G Draft:
[^] 1/29/99

Memorandum of Agreement

This Memorandum of Agreement (the "Agreement") is entered into as of 3 February, 1999, between Symbol Technologies, Inc. ("Symbol"), having its corporate offices at One Symbol Plaza Holtsville, NY 11742, and Ameranth Technology Systems, [^] Inc. ("Ameranth"), having its corporate offices at 16079 San Dieguito Road, suite A-1, Rancho Santa Fe, CA.

WHEREAS, the parties believe that a mutually beneficial relationship should be established to leverage their respective capabilities toward the goal of maximizing sales of the parties' products in the Hospitality/Gaming and selected DOD/Law Enforcement markets (the "Markets"):

THEREFORE, the parties state and agree as follows:

1. The parties have signed a non-disclosure agreement that is in force and will survive this Agreement.

2. Attached as Exhibit A is a summary of the business agreement setting forth the respective responsibilities of the parties with respect to this Agreement. WITHIN 30 DAYS KAM OEM KAM

3. Ameranth and Symbol will also execute a Symbol ~~Distributor~~ Agreement, substantially in the form of Exhibit B, [^] modified as the parties shall agree, and each party will adhere to all of the standard conditions [^] and obligations set forth in the agreement.

4. The term of this agreement will be one year from the date first written above, renewable [^] automatically for successive one-year periods, unless written notice of termination is given under paragraph 5 of this Agreement.

5. This Agreement may be canceled upon six months written notice from either [^] party setting forth the details of a breach of this Agreement or a default of any obligations under this Agreement, provided, however, that the defaulting party shall have ninety (90) days to cure [^] the breach or default, unless the breach or default cannot be cured in ninety days, in which case, the Agreement shall not be canceled if the defaulting party shall have undertaken commercially reasonable efforts designed to cure the breach or default. If a cancellation of Ameranth's role as the "master distributor" for Symbol products in the Markets occurs, Ameranth shall retain the right to purchase and [^] use Symbol wireless products [^] within its products.

6. The nature of this agreement, the fluidity of technology, market evolution, the introduction of new products and related developments require an exceptional level of trust between the parties and flexibility in the implementation of

the Agreement to ensure that the relationship is fair and equitable to both parties. As the "master distributor" for Symbol in the Markets Ameranth will be committing assets and making investments to further the sales of Symbol products. In so doing, Ameranth will realize benefits in margins between the prices it pays for products and those offered to others in the distribution network, and enjoy collateral sales of its products through these efforts and opportunities. Ameranth's efforts in these markets and the benefits that it realizes will be directly related to the value that Ameranth brings to the efforts and in such cases where sales occur in the Markets for which Ameranth did not contribute (e.g. Symbol "exclusions" as indicated in [^] Exhibit A[^]), Ameranth will not realize any direct compensation. The parties will address and resolve any issues in this regard in an equitable and fair manner.

7. The parties will designate within 10 days of the signing of this agreement the official representative for each party through which all actions, changes and/or issues associated with the Agreement will be addressed.

8. Changes will be subject to mutual agreement. [^] **The** parties will cooperate closely on pricing strategies because it is expected that frequent changes will be required to accommodate competitor actions and market changes.

9. This Agreement will be governed by the laws of the State of New York **applicable to contracts made and to be performed entirely in that state.** [^]

10. This Agreement, Exhibit A, **the non-disclosure agreement** and the Symbol Distributor Agreement, **as executed,** comprise the entire agreement and understanding of the parties relating to the subject matter of this Agreement and supersede all prior agreements, arrangements and understandings, whether written or oral, relating to the subject matter of this Agreement. [^]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement on the date first written above.

SYMBOL TECHNOLOGIES, INC.

By: _____
Name: MARK SCHRATE
Title: V.P. WESTERN AREA

AMERANTH TECHNOLOGY SYSTEMS, INC.

By: _____
Name: Keith McNally
Title: Chief Executive Officer

Doc#:DS5:207966.1

PWRW&G Draft:
1/29/99

Agreement to Synchronize Efforts in Selected Markets

1. Symbol Technologies, Inc. ("Symbol") and Ameranth Technology Systems, Inc. ("Ameranth") have agreed to combine their efforts in the Hospitality/Gaming and selected DOD/Law Enforcement markets [^] with the expectation that the resulting cooperation will achieve better results for the companies than if they pursued these markets independently. The cooperation will primarily take the form of a product distribution agreement. To maximize results, however, the two companies will attempt to synchronize their development and marketing efforts in order to achieve the earliest and broadest market results possible.

2. Ameranth responsibilities/key actions:

A. Ameranth will establish the Symbol Spectrum 24™ wireless LAN network as its standard for its 21ST Century Restaurant™ System and other 21ST Century systems. Ameranth will also change its current product upgrade paths for the Intrapad™, Padlink™[^] and Ultrapad™ from previous wireless baselines to the Spectrum 24 [^] ™ network products and ensure that these Ameranth products are interoperable with the Spectrum 24™ network. Ameranth will also seek to link the Spectrum 24™ backbone to/with its other emerging partner links (e.g. CDMA/CDPD) and with web based links designed to achieve a totally integrated solution around the Spectrum 24™ standard.

B. Ameranth will cancel its planned CE upgrade to the Ultrapad™ and switch to the 2700 product family as its future mobile computing device. This will also include switching its outstanding proposals to a 2700 baseline as soon as feasible. Ameranth will work with Symbol to develop a modified version of the standard 2700 (e.g., case color change or other minor changes) to enable Ameranth to market a unique, branded version. Ameranth also [^] reserves the right [^] to produce custom accessory options (e.g. a SMART Card reader, and/or a slightly more EMI robust case) and to offer these options to Symbol for possible broader application in non-Ameranth markets. Additionally, [^] having agreed that there is a mutual desire for broader cooperation, Ameranth will propose to align its future product developments (e.g Bluetooth enabled devices) to leverage from and complement Symbol's strategic direction.

C. Ameranth will dedicate its resources to making the Spectrum 24™ wireless network and family of products [^] the industry standards within Ameranth's core markets as quickly and as broadly as possible.

D. Ameranth will develop and execute a comprehensive product launch strategy for the Spectrum 24™ network and the 1700/2700 mobile devices for the May[^] 1999 National Restaurant Association ("NRA") Show in Chicago. This strategy will include an advertising campaign, a complete upgrade of

brochures/handouts, a mailing campaign[^], preparation of dealer/distributor packages, a press release, a state-of-the-art booth, pricing strategies, software development kits, and similar actions [^] designed to achieve maximum results. Additionally, Ameranth will, in cooperation with Symbol, select 5-10 leading POS companies [^](e.g., Infogenesis, HSI, Aloha, Squirrel, GEAC[^] and Radiant) to have the products launched simultaneously in their booths at NRA. These POS companies and other partners will be under [^] non-disclosure agreements prior to the product launch. In parallel, [^] the parties will jointly select with the Symbol team other best-of-breed partners in additional key areas of the 21ST Century Restaurant™ system (e.g. IBM for servers/displays/integration), 1-2 frequent dining database suppliers, 1-2 paging companies (e.g., JTECH, Signologies)[^] and 1-2 credit card authorization companies (e.g., NPC), so that a totally integrated system solution is available for customers of [^] various sizes and needs, centered around the Spectrum 24™ wireless network and family of products.

E. Ameranth will modify its Software Wizard development environment to enable POS suppliers and/or the customers themselves to quickly develop hand-held POS applications for the CE screen of the 2700. [^] Ameranth will work with Symbol, Microsoft and others to offer a [very easy] [^] programming environment. [^] Ameranth will also provide a tailored version for the smaller screen of the 1700 and work with one or more software developers Symbol selects from its ongoing efforts with the Palm OS [^] as an option for the integrated 21ST Century Restaurant™ system.

F. Ameranth will prepare and present to Symbol management a detailed 1999/2000 business plan for this coordinated effort. A draft will be presented by March 1, 1999 (assuming the relationship is established not later than February 1, 1999) and it will be finalized approximately April 1, 1999. It is envisioned that the development of this plan will be a team effort leveraging from Symbol's experience in similar product/market launches. Subsequently, the plan will be reviewed at least quarterly and appropriate adjustments will be made to either exploit success or address any shortfalls.

G. Ameranth will initiate infrastructure and personnel expansion efforts in preparation for and in parallel with the product launch at NRA [^] so that the proper resources are in place/available not later than May 20, 1999 to ensure quality support for the expected large industry response to the product launch. This will include, but not be limited to, sufficiency of prototypes, software development kits, 1-800 call-in support, rapid repair and equipment support options, technical support, dealer kits, availability of supplies/accessories etc. Additionally, Ameranth will prepare a significant upgrade to its web-site to make all key specifications and product information available over the web and to [^] prepare for web commerce. The details of this structure will be coordinated with Symbol in advance and included in the overall business plan referred to in paragraph 2(F) above.

H. Ameranth will develop and support a comprehensive distribution/pricing strategy so that sufficient margin exists at the various channels to provide attractive margins/profits for the family of products to become the runaway success both companies wish them to be. This will require Ameranth to [^] **work closely with** the channel partners, and in coordination with Symbol, to make adjustments to maximize market share and to focus on optimizing the sales volume and market share.

I. Ameranth management will work closely with the Symbol management team to ensure that this cooperative effort is very successful and that problems/issues, if any, are dealt with quickly and through the cooperation of the respective management teams.

J. Ameranth [^] **[registers]**[1/] the following accounts as Ameranth accounts: Litton, SAIC, Cache Box, HSI, WirelessKnowledge, Tangent, JTECH and 4-5 international military markets with an aggregate potential of approx 50,000 2700's, and many thousands of Spectrum 24 wireless cards/phones and Access Points during the period of Q499 to Q2 03. Note: these are markets/contracts that will be reached through/with Litton as opposed to direct sales. [^] **Ameranth will respect the [excluded registered accounts] of which Symbol advises it.**

3. Symbol Responsibilities/key actions:

A. Symbol [^] **has selected** Ameranth as ~~its master distributor~~ and launch partner for the Spectrum 24™ and 1700/2700 products within the Hospitality/Gaming and [^] **certain** DOD/Law Enforcement markets. Ameranth will be authorized to brand a version of the 2700. Symbol will support Ameranth's 21st Century Restaurant™ System with the Spectrum 24™ family of products.

B. Symbol will assist Ameranth in achieving success through its experience, marketing networks, pricing incentives, engineering support and other appropriate actions that Symbol deems complementary to the overall objectives. Symbol will provide Ameranth a reasonable amount of no-cost loaners, demo units etc. to facilitate preparations for the NRA product launch.

C. Symbol will provide its Spectrum 24™ ~~PC cards~~ **to Ameranth** at very aggressive prices [^]~~(e.g., $150.00)~~ for those embedded applications only within Ameranth products so as to enable them to meet the requisite price points and to achieve a totally integrated Spectrum 24™ network. Ameranth will not disclose these special prices (nor will they be discernable to the market), **except as required by law,** and these specially priced cards will only be for Ameranth's embedded product use.

1/ To be clarified.

successful-My key

D. Symbol will make its Spectrum 24™ family of products available to Ameranth for overall distribution within Ameranth's markets and at price points that enable Ameranth to be ~~profitable~~ while distributing products to the channel partners/distributors/dealers.

E. Symbol will keep Ameranth reasonably apprised of its future product strategy so as to enable Ameranth to align its strategy to be complementary.

F. Symbol will, from time to time, offer Ameranth an opportunity to bid to provide hardware/software options supportive to the Symbol product line (e.g., a SMART Card reader option). It will be in Symbol's sole discretion to determine if Ameranth's bid provides the best-value solution for [^] **Symbol's** needs.

G. Symbol will share leads and cooperate on market strategy with Ameranth in areas supportive to the common goals and that do not conflict with Symbol's other partners, commitments and/or relationships.

H. After reviewing Ameranth's business plan in March/April 1999, Symbol will consider providing financial support and/or incentives (e.g., deferred payments, advances etc.) so as to enable Ameranth to achieve [^] **greater** market penetration and sales. It will be in Symbol's sole discretion to determine what support of this nature, if any, is provided depending on the merits of the business plan and the results achieved.

I. Symbol will assign an Ameranth account manager through which regular business arrangements will be transacted. Strategic actions/decisions will be coordinated with/through the Symbol Director of Hospitality/Gaming.

J. Symbol will support Ameranth's efforts in its registered accounts. **Symbol will advise Ameranth of the [registered accounts] to be excluded from this Agreement. A mutually agreed upon list of [registered accounts] will be finalized within ninety (90) days of the date of the Memorandum of Agreement.**

Exhibit 8

AMERANTH™
WIRELESS SYSTEMS SOLUTIONS
NEWS

Contact: Kathie Sanders (703) 281-4995
12230 El Camino Real, Ste 330, San Diego, CA 92130
Tel: (888) AMERANTH Fax: (858) 794-8222
http://www.ameranth.com mailto:info@ameranth.com

AMERANTH TECHNOLOGY SYSTEMS™ and SYMBOL TECHNOLOGIES® ANNOUNCE 21ST CENTURY RESTAURANT™ SYSTEM

Handheld Computer and Wireless LAN Technology Automates Traditional Restaurant Processes

CHICAGO, May 22, 1999 -- Ameranth Technology Systems, Inc., a leading provider of Wireless Systems Solutions™ to the hospitality industry, and Symbol Technologies, Inc., (NYSE: SBL) a world leader in wireless mobile computing, today announced the 21st Century Restaurant System at this year's National Restaurant Association (NRA) show.

The 21st Century Restaurant System is a fully integrated system that provides a long-awaited hospitality industry solution for traditional restaurant processes. The centerpiece of the 21st Century Restaurant System is Ameranth's UltraPad™ 2700, a handheld computer that integrates Symbol's Spectrum24 wireless local-area network and the Microsoft (NSDQ: MSFT) Windows CE operating system.

The combination of the three technologies offers unprecedented benefits to restaurateurs and their clientele. The 21st Century Restaurant System allows restaurant processes, including order taking, payment processing (credit card, debit card, smart card), inventory control, process control, waitlist management, table management, personnel management, management interface, valet parking, frequent-diner program interface, short- and long-range communications, and other applications, to be managed and controlled from Ameranth's handheld computer, dramatically increasing productivity, reducing cost, and improving customer service.

The Ameranth handheld computer communicates to other restaurant computers and devices by the Symbol Spectrum24 wireless local area network. Symbol's wireless local area network is based on industry standards and is the technology of choice at more than 40,000 customer locations in a number of global markets.

Other key partners in the 21st Century Restaurant™ System include IBM, for back-office server hardware and large-scale implementations; JTECH, the world leader in on-premise paging, for paging systems; COMTEC, a world leader in mobile printing, for portable printers; The Customer Connection, a leader in frequent dining-programs, for frequency programs; System Concepts, Inc., the developer of FOOD-TRAK®, the industry's first and foremost food and beverage management system for back-office inventory and recipe and menu management; and leading POS, companies, led by the charter POS partner, Hospitality Systems International HSI, a leading POS company for both restaurants and hotels. Additional partners will be announced.

Spectrum24, Symbol's open-architecture wireless network, provides high-performance data and voice-over-IP communications with excellent immunity to interference. Its frequency hopping technology ensures robust and reliable data throughout. Spectrum24 also features selectable power management for application optimization, as well as encryption capabilities to ensure data security. Spectrum24 is designed to support the IEEE 802.11 wireless LAN standard. Operating in the 2.4GHz band using spread-spectrum modulation, Spectrum24 allows fast, seamless roaming with load balancing among cells. Its capacity and range are expandable through the use of multiple access points.

Microsoft Windows CE offers exceptional capabilities with seamless integration with the databases of information already in place throughout the hospitality industry.

-more-

"Our mission is to work with Symbol and Microsoft to provide worldwide-standard wireless systems solutions," said Keith McNally, CEO of Ameranth. "Ameranth's integration of Symbol's unparalleled technological advancements and the Microsoft Windows CE platform with the other capabilities of our partners will allow customers to deploy fully integrated software and hardware solutions that will provide optimal service, efficiency, and profitability for years to come."

"As a world-leading supplier of mobile computing wireless local area networks and related technologies, Symbol already provides the standard wireless solution for many industries. Our agreement with Ameranth and relationship with Microsoft will allow Ameranth to carry our standard of technological excellence into industries where they are already playing a leading role," said Joe McCormick, Senior Director for Emerging Technologies at Symbol Technologies.

"We are pleased that Ameranth and Symbol have chosen Windows CE as the mobile-computing backbone for the introduction of their 21st Century Restaurant System," said Tony Barbagallo, group product manager, Productivity Appliances Division, Microsoft Corp. "With Symbol's proven expertise in mobile computing and wireless networks,

Ameranth's vision and integration skills, and Microsoft's innovative family of software products and solutions, we share in their vision for the 21st Century Restaurant System."

In addition to appearing at booth 6254 at the National Restaurant Association Show, Ameranth/Symbol will showcase their new products at HITEC in Atlanta, June 22-24; The Western Foodservice & Hospitality Expo in Los Angeles, August 21-23; MUFSO in Dallas, September 12-15; The World Gaming Congress & Expo in Las Vegas, September 14-16; FS/TEC'99 in Dallas, November 1-3; and the International Hotel, Motel & Restaurant Show in New York, November 6-9.

Ameranth Technology Systems, Inc., was founded in 1996 primarily to provide wireless computing solutions to the hospitality, gaming, defense, and law-enforcement industries and markets. Ameranth's products include handheld computers, scanners, access points, printers, and related software.

Symbol Technologies, Inc., is a global leader in mobile data management systems and services with innovative customer solutions based on wireless local-area networking for voice and data, application-specific mobile computing, and bar-code data capture. Symbol's wireless LAN solutions are installed at more than 40,000 customer locations, and more than 7 million Symbol scanners and application-specific scanner-integrated mobile computer systems are in use worldwide. Symbol and its global network of business partners provide solutions for retailing, transportation and distribution logistics, parcel and postal delivery, healthcare, education, manufacturing, and other industries.

-30-