US006779118C2

(12) **INTER PARTES REEXAMINATION CERTIFICATE** (1128th)

United States Patent

Ikudome et al.

(10) **Number:** US 6,779,118 C2

(45) **Certificate Issued:** Jun. 8, 2015

(54) **USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM**

(75) Inventors: **Koichiro Ikudome**, Arcadia, CA (US);
Moon Tai Yeung, Alhambra, CA (US)

(73) Assignee: **LINKSMART WIRELESS TECHNOLOGY, LLC**, Pasadena, CA (US)

Reexamination Request:
No. 95/002,035, Sep. 12, 2012

No. 90/012,342, Jun. 8, 2012

Reexamination Certificate for:

Patent No.:	**6,779,118**
Issued:	**Aug. 17, 2004**
Appl. No.:	**09/295,966**
Filed:	**Apr. 21, 1999**

Reexamination Certificate C1 6,779,118 issued Mar. 27, 2012

Related U.S. Application Data

(60) Provisional application No. 60/084,014, filed on May 4, 1998.

(51) **Int. Cl.**
H04L 29/06 (2006.01)

(52) **U.S. Cl.**
CPC *H04L 29/06* (2013.01)

(58) **Field of Classification Search**
None
See application file for complete search history.

(56) **References Cited**

To view the complete listing of prior art documents cited during the proceedings for Reexamination Control Numbers 95/002,035 and 90/012,342, please refer to the USPTO's public Patent Application Information Retrieval (PAIR) system under the Display References tab.

Primary Examiner — Jalatee Worjloh

(57) **ABSTRACT**

A data redirection system for redirecting user's data based on a stored rule set. The redirection of data is performed by a redirection server, which receives the redirection rule sets for each user from an authenication and accounting server, and a database. Prior to using the system, users authenticate with the authenication and accounting server, and receive a network address. The authentication and accounting server retrieves the proper rule set for the user, and communicates the rule set and the user's address to the redirection server. The redirection server then implements the redirection rule set for the user's address. Rule sets are removed from the redirection server either when the user disconnects, or based on some predetermined event. New rule sets are added to the redirection server either when a user connects, or based on some predetermined event.

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INTER PARTES
REEXAMINATION CERTIFICATE
ISSUED UNDER 35 U.S.C. 316

THE PATENT IS HEREBY AMENDED AS
INDICATED BELOW.

AS A RESULT OF REEXAMINATION, IT HAS BEEN
DETERMINED THAT:

Claims **1**, **8**, **15** and **25** were previously cancelled.
Claims **2-7**, **9-14**, **16-24** and **26-90** are cancelled.

* * * * *

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

95100035

40401   7590   05/19/2015
Hershkovitz and Associates, PLLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
05/19/2015	PAPER

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.

PTOL-90A (Rev. 04/07)

Panasonic-1012

Transmittal of Communication to Third Party Requester *Inter Partes* Reexamination	Control No. 90/012,342 and 95/002,035	Patent Under Reexamination 6779118	
	Examiner Jalatee Worjloh	Art Unit 3992	

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

┌─── (THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS) ───┐

James J. Wong
2108 Gossamer Avenue
Redwood City, CA 94065

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination prceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it <u>cannot</u> be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

Transmittal of Communication to Third Party Requester *Inter Partes* Reexamination	Control No. 95/002,035 ✝90/012,342	Patent Under Reexamination 6779118
	Examiner Jalatee Worjloh	Art Unit 3992	

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

┌──── (THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS) ────┐

Haynes & Boone, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination prceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it <u>cannot</u> be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

NOTICE OF INTENT TO ISSUE INTER PARTES REEXAMINATION CERTIFICATE	Control No. 95/002,035 and 90/012,342	Patent Under Reexamination 6779118
	Examiner Jalatee Worjloh	Art Unit 3992

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

1. ☒ Prosecution on the merits is (or remains) closed in this *inter partes* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. *Cf.* 37 CFR 1.313(a). A Certificate will be issued in view of:

    a. ☐ The communication filed on   by   .
    b. ☐ Patent owner's failure to file an appropriate timely response to the Office action dated   .
    c. ☐ The failure to timely file an Appeal with fee by all parties to the reexamination proceeding entitled to do so. 37 CFR 1.959 and 41.61.
    d. ☐ The failure to timely file an Appellant's Brief with fee by all parties to the reexamination proceeding entitled to do so. 37 CFR 41.66(a).
    e. ☒ The decision on appeal by the ☒ Board of Patent Appeals and Interferences ☐ Court dated 2/20/2015
    f. ☐ Other:

2. ☒ The Reexamination Certificate will indicate the following:

    a. Change in the Specification: ☐ Yes ☒ No
    b. Change in the Drawings: ☐ Yes ☒ No
    c. Status of the Claims:
    (1) Patent claim(s) confirmed: .
    (2) Patent claim(s) amended (including dependent on amended claim(s)):
    (3) Patent claim(s) cancelled: 2-7, 9-14, 16-24 and 26-90.
    (4) Newly presented claim(s) patentable: .
    (5) Newly presented cancelled claims: .

    (6) Patent claim(s) ☐ previously ☐ currently disclaimed:

    (7) Patent claim(s) not subject to reexamination: .

3. ☐ Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."

4. ☐ Note attached NOTICE OF REFERENCE CITED, (PTO-892).

5. ☐ Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).

6. ☐ The drawings filed on _____ is: ☐ approved ☐ disapproved.

7. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. § 119(a) - (d) or (f).
    a)☐ All   b)☐ Some*   c)☐ None   of the certified copies have

    ☐ been received.
    ☐ not been received.
    ☐ been filed in Application No.   .
    ☐ been filed in reexamination Control No.   .
    ☐ been received by the International Bureau in PCT Application No.   .

    * Certified copies not received: .

8. ☒ Note Examiner's Amendment.

9. ☐ Other: .

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

	/Jalatee Worjloh/ Primary Examiner, Art Unit 3992

NOTICE OF INTENT TO ISSUE REEXAMINATION CERTIFICATE

Summary

This Office action terminates the prosecution of *inter partes* reexamination of U.S. Patent

No. 6,779,118 to Ikudome, et al.

Claims 2-7, 9-14, 16-24 and 26-90 were subject to reexamination. The rejection of

claims 16-24, 26, 27, 36-43, 68 and 90 were appealed. In light of the Board decision dated

February 20, 2015, the appealed claims are canceled by examiner's amendment. Also, non-

appealed, but rejected claims 2-7, 9-14, 28-35, 44-67, 69-89 are canceled by examiner's

amendment.

Examiner's Amendment

An examiner's amendment to the record appears below. The changes made by this

examiner's amendment will be reflected on the reexamination certificate to issue in due course.

All correspondence relating to this *inter partes* reexamination proceeding should be directed as
follows:

By U.S. Postal Service Mail to:

Mail Stop Inter Partes Reexam
ATTN: Central Reexamination Unit Commissioner for Patents P.O. Box 1450
Alexandria, VA 22313-1450

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

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

By EFS-Web:
Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at

https://efs.uspto.gov/efile/myportal/efs-registered

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication should be directed to the Central Reexamination Unit at telephone number (571)272-7705.

/Jalatee Worjloh/

Primary Examiner, Art Unit 3992

Conferees:

WOO H. CHOI
Supervisory Patent Reexamination Specialist
CRU - Art Unit 3992

Search Notes	Application/Control No. 95002035 and 90/012,342	Applicant(s)/Patent Under Reexamination 6779118
	Examiner JALATEE WORJLOH	Art Unit 3992

CPC- SEARCHED

Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED

Symbol	Date	Examiner

US CLASSIFICATION SEARCHED

Class	Subclass	Date	Examiner

SEARCH NOTES

Search Notes	Date	Examiner
review of patented file's prosecution history	10/3/2012	J.W.

INTERFERENCE SEARCH

US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

Panasonic-1012

Page 9 of 1408

Issue Classification

Issue Classification	**Application/Control No.** 95002035	**Applicant(s)/Patent Under Reexamination** 6779118
	Examiner JALATEE WORJLOH	**Art Unit** 3992

CPC

Symbol						Type	Version
H04		L29		/	06	I	01/01/13
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CPC Combination Sets

Symbol				Type	Set	Ranking	Version
			/				
			/				

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	none	
/JALATEE WORJLOH/ Primary Examiner.Art Unit 3992	05/04/2015	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	none	none

U.S. Patent and Trademark Office

Part of Paper No. 20150504

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	95002035	6779118
	Examiner	**Art Unit**
	JALATEE WORJLOH	3992

US ORIGINAL CLASSIFICATION		INTERNATIONAL CLASSIFICATION		
CLASS	**SUBCLASS**	**CLAIMED**		**NON-CLAIMED**
726	7	H 0 4 L	29 / 06 (2006.0)	

CROSS REFERENCE(S)

CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)				

NONE			Total Claims Allowed:	
			none	
(Assistant Examiner)		(Date)		
/JALATEE WORJLOH/ Primary Examiner.Art Unit 3992		05/04/2015	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)		(Date)	none	none

U.S. Patent and Trademark Office

Part of Paper No. 20150504

		Application/Control No.	Applicant(s)/Patent Under Reexamination
Issue Classification		95002035	6779118
		Examiner	**Art Unit**
		JALATEE WORJLOH	3992

☐ Claims renumbered in the same order as presented by applicant   ☐ CPA   ☐ T.D.   ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original

NONE		**Total Claims Allowed:**	
		none	
(Assistant Examiner)	(Date)		
/JALATEE WORJLOH/ Primary Examiner.Art Unit 3992	05/04/2015	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	none	none

U.S. Patent and Trademark Office

Part of Paper No. 20150504

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

BIB DATA SHEET

CONFIRMATION NO. 1745

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
95/002,035	09/12/2012 RULE	726	3992	RI1341006F

APPLICANTS

INVENTORS
6779118, Residence Not Provided;
LINKSMART WIRELESS TECHNOLOGY, LLC(OWNER), Pasadena, CA;
~~David L. McCombs(3RD PTY REQ), Dallas, TX;~~
CISCO SYSTEMS, INC.(REAL PTY IN INTEREST), San Jose, CA;
~~HAYNES AND BOONE, LLP IP SECTION, DALLAS, TX~~

** CONTINUING DATA **************************
This application is a REX of 09/295,966 04/21/1999 PAT 6779118
which claims benefit of 60/084,014 05/04/1998

** FOREIGN APPLICATIONS **************************

** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and /JALATEE WORJLOH/ Acknowledged Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS

ADDRESS
Hershkovitz and Associates, PLLC
2845 Duke Street
Alexandria, VA 22314
UNITED STATES

TITLE
USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

FILING FEE RECEIVED	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees
		☐ 1.16 Fees (Filing)
		☐ 1.17 Fees (Processing Ext. of time)
		☐ 1.18 Fees (Issue)
		☐ Other _____
		☐ Credit

BIB (Rev. 05/07).

Reexamination	Application/Control No.	Applicant(s)/Patent Under Reexamination
‖‖‖‖‖‖‖‖‖‖‖‖‖	95/002,035 and 90/012,342	6779118
	Certificate Date	Certificate Number **C2**

Requester Correspondence Address:	☐ **Patent Owner**	☒ **Third Party**

David L. McCombs   (For the Inter Partes Requester)
Haynes & Boone, LLP, IP Section
2323 Victory Ave., Suite 700
Dallas, TX 75219

James J. Wong   (For the Ex Parte Requester)
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Redwood City, CA 94065

LITIGATION REVIEW ☒	/J.W./ (examiner initials)	04/05/2013 (date)
Case Name		Director Initials
(OPEN) 8:12cv522		
(CLOSED) 2:10cv277		
(CLOSED) 2:09cv26		
(CLOSED) 2:09cv26		
(CLOSED) 2:08cv385		
(CLOSED) 2:08cv304		
(CLOSED) 2:08cv264		

COPENDING OFFICE PROCEEDINGS	
TYPE OF PROCEEDING	NUMBER
1. none	

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

40401   7590   02/20/2015
Hershkovitz and Associates, PLLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
02/20/2015	PAPER

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

CISCO SYSTEMS, INC.
Requester

v.

LINKSMART WIRELESS TECHNOLOGY, LLC
Patent Owner

_____

Appeal 2014-007780
Reexamination Control Nos. 95/002,035 and 90/012,342 (merged)
Patent 6,779,118 B1
Technology Center 3900

_____

Before JAMES T. MOORE, MARC S. HOFF, and
DAVID M. KOHUT, *Administrative Patent Judges.*

KOHUT, *Administrative Patent Judge*

DECISION ON APPEAL

Patent Owner, Linksmart Wireless Technology, LLC, appeals under U.S.C. §§ 134 and 315 (2002) the Examiner's decision to adopt Requester's rejection of claims 16-24, 26, 27, 36-43, and 68-90[1] under certain grounds, as discussed below. An oral hearing was conducted with the Patent Owner on January 28, 2015. We have jurisdiction under 35 U.S.C. §§ 134 and 315 (2002).

We AFFIRM.

STATEMENT OF THE CASE

This proceeding arose from a request by a Third Party Requester for an *ex parte* reexamination (90/009,301) and from a request by Cisco Systems, Inc. for an *inter parte* reexamination (95/002,035) of U.S. Patent 6,779,118 B1, entitled "User Specific Automatic Data Redirection System," and issued to Ikudome et al. on August 17, 2004 (the "'118 patent"). A decision *sua sponte* merged both proceedings into this single *inter parte* reexamination proceeding. *See* Decision *Sua Sponte* Merging Reexamination Proceedings, mailed March 20, 2013.

The '118 patent describes a system that contains a redirection server that uses a rule set to control data passing between a user and a public network.

Claim 16, on appeal, was not amended during reexamination and reads as follows:

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[1] While claims 2-7, 9-14, 16-24, and 26-90 are subject to reexamination in the merged proceedings, only the claims listed are subject to the present appeal. App. Br. 3.

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16. A system comprising:
a redirection server programmed with a user's rule
set correlated to a temporarily assigned network address;
wherein the rule set contains at least one of a
plurality of functions used to control data passing
between the user and a public network;
wherein the redirection server is configured to allow
automated modification of at least a portion of the rule
set correlated to the temporarily assigned network
address;
wherein the redirection server is configured to allow
automated modification of at least a portion of the rule
set as a function of some combination of time, data
transmitted to or from the user, or location the user
accesses; and
wherein the redirection server is configured to allow
modification of at least a portion of the rule set as a
function of time.

STATEMENT OF THE REJECTIONS

Requester proposes rejections of the claims over the following prior
art references:

Fortinsky	US 5,815,574	Sept. 29, 1998
Wong	US 5,835,727	Nov. 10, 1998
Radia	US 5,848,233	Dec. 8, 1998
Willens	US 5,889,958	March 30, 1999
Stockwell	US 5,950,195	Sept. 7, 1999
He	US 6,088,451	July 11, 2000
Coss	US 6,170,012 B1	Jan. 2, 2001
Zenchelsky	US 6,233,686 B1	May 15, 2001
Ikudome	US 6,779,118 B1	Aug. 17, 2004

C. Rigney, et al., "Remote Authentication Dial In User Service (RADIUS),"
https://tools.ietf.org/html/rfc2138 (last accessed January 20, 2012).
(Hereinafter "RFC2138).

Patent Owner appeals the Examiner's adoption of the following rejections:

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 under 35 U.S.C. § 103(a) as obvious over the combination of Willens, RFC2138, and Stockwell.

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 under 35 U.S.C. § 103(a) as obvious over the combination of Willens, RFC2138, and Ikudome (hereinafter referred to as APA).

Claims 16-24, 26, 27, 36-43, and 68-90 under 35 U.S.C. § 103(a) as obvious over the combination of Radia, Wong, and Stockwell.

Claims 16-24 and 68-90 under 35 U.S.C. § 103(a) as obvious over the combination of Radia, Wong, and Stockwell.

Claims 40-43 under 35 U.S.C. § 103(a) as obvious over the combination of He, Zenchelsky, and APA.

Claims 40-43 under 35 U.S.C. § 103(a) as obvious over the combination of He, Zenchelsky, Fortinsky, and APA.

Claims 16-24, 26, 27, 36-43, and 68-90 under 35 U.S.C. § 103(a) as obvious over the combination of Coss and APA.

ISSUES

Did the Examiner err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "the redirection server is configured to allow automated modification," as recited in independent claims 16-23, 36-39, and 68?

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Did the Examiner err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "instructions to the redirection sever to modify the rule set are received by . . . the redirection server," as recited in dependent claim 24, or "receiving instructions by the redirection server to modify at least a portion of the user's rule set," as recited in independent claim 83?

Did the Examiner err in combining Radia, Wong, and Stockwell?

ANALYSIS

Claims 16-23, 36-39, and 68-82

Patent Owner argues that the rejection of claims 16-23, 36-39, and 68-82 is in error because the Examiner has interpreted the limitation "configured to allow modification," as not requiring the redirection server to be used to perform the modification. App. Br. 13-14; Reb. Br. 10-12. Patent Owner contends that the correct interpretation, according to the Specification and the claims, requires the modification to be performed by the redirection server. App. Br. 14; Reb. Br. 10. Therefore, based on the Examiner's interpretation, Patent Owner contends that the combination of Radia, Wong, and Stockwell does not teach the disputed limitation. App. Br. 14; Reb. Br. 10. We disagree.

Each of independent claims 16-23, 36-39, and 68 recite the following full limitation "the redirection server is configured to allow automated modification of at least a portion of the rule set." The Examiner finds (Ans. 10-11) and Requester agrees (3PR Resp. Br. 6) that this limitation

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should not be so narrowly interpreted as requiring the redirection server to perform the actual modification. The Examiner (Ans. 11) and Requester (3PR Resp. Br. 6) both cite to a portion of Patent Owner's Specification that supports a finding that Patent Owner contemplated something other than the redirection server performing the modification. Specifically, the Examiner (Ans. 11) and Requester (3PR Resp. Br. 6) cited the following from Patent Owner's Specification:

> In yet another embodiment, signals from the Internet 110 side of redirection server 208 can be used to modify rule sets being used by the redirection server . . . Of course, the type of modification an outside server can make to a rule set on the redirection server is not limited to deleting a redirection rule, but can include any other type of modification to the rule set that is supported by the redirection server as discussed above.

'118 Patent, col. 7, l. 58 – col. 8, l. 11.

Patent Owner argues that the Examiner and Requester take this citation out of context. App. Br. 15; Reb. Br. 11. Specifically, Patent Owner contends that the following citation proves that it is the redirection server that causes the modification, not the outside server (App. Br. 15):

> ". . . the web site then sends an authorization to the redirection that deletes the redirection to the questionnaire web site from the rule set for the user who successfully completed the questionnaire."

'118 Patent, col. 8, l. 3-6.

We disagree with Patent Owner. While we agree that the portion cited by Patent Owner contemplates the redirection server deleting a portion of the rule set, this citation does not refute the Examiner's citation that an outside server can also modify the rule set.

Patent Owner also argues that it would be impossible for the rule set to change without the redirection server being involved in the process. App. Br. 15; Reb. Br. 11. While we agree that the redirection server is present during the process, there is nothing in the Specification, or the claims, that require the redirection server to be actively involved in the process.

Therefore, under the broadest reasonable interpretation consistent with Patent Owner's Specification, we find no error in the Examiner's interpretation. There is nothing in Patent Owner's Specification or the claims, themselves, that persuasively indicate that the redirection server must be the component that performs the modification. Instead, as indicated by the Examiner (Ans. 11), the claim only requires that the redirection server "allow" the modification. Thus, we see no error in the Examiner's interpretation that something other than the redirection server can perform the modification to the rule set.

Additionally, Patent Owner argues that Radia fails to teach modification and instead teaches removing and replacing a rule set. App. Br. 13; Reb. Br. 11. For instance, Patent Owner contends that when a filter has outlived its usefulness a new filter is created and the new filter is configured in the router. App. Br. 16. Again, we disagree with Patent Owner's position.

The Examiner finds, and Requester agrees, that Radia teaches a system wherein a router receives instructions to modify filtering rules by reconfiguring the router. Ans. 11 (citing Radia, col. 6, l. 66-col. 7, l. 8). Thus, we agree that the router is not just configured, but reconfigured. Therefore, we do not find Patent Owner's arguments to be persuasive.

Claims 24, 26, 40-43, and 83-90

Patent Owner argues that even if the Examiner's interpretation of the limitation listed above was correct, that interpretation would only apply to those claims. App. Br. 14. Patent Owner contends that claims 24, 26, 40-43, and 83-90 recite a different limitation that would, in fact. require the redirection server to perform the modification step and the combination of references fails to teach that limitation. *Id.* We disagree.

Claim 24 recites "instructions to the redirection server to modify the rule set are received by . . . the redirection server," and claim 83 recites "receiving instructions by the redirection server to modify at least a portion of the user's rule set." Claims 26 and 40-43 are dependent upon cancelled independent claim 25 which, before cancelled, recited similar language to claim 83.[2] The Examiner interprets (Ans. 10-11), and the Requester agrees (3PR Resp. Br. 6-7), that these claims only require the redirection server receive the instructions to modify the rule set and do not necessarily require the redirection server to perform the modification. We are not persuasively pointed to error with the Examiner's position, as there is nothing in the claim that indicates the redirection server must perform the actual modification to the rule set.

Additionally, the Examiner finds that, even if the claims are interpreted as Patent Owner contends they should be, the references read on the claims. Ans. 11. Specifically, the Examiner finds that Radia teaches a

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[2] In the event of further prosecution, we recommend the Examiner and Patent Owner address the cancellation of independent claim 25 and its non-cancelled dependent claims.

8

system wherein an ANCS sends instructions to a router to modify its
filtering rules. *Id.* The Examiner finds that when the router and ANCS are
combined to form the redirection server, the combination meets Patent
Owner's interpretation of the disputed claim limitations. *Id.*

Patent Owner argues that it would not make sense to combine the
router and the ANCS of Radia into one because each of these components
has its own separate and distinct functionality. App. Br. 15-16; Reb. Br. 13.
However, we agree with Requester that Radia teaches combining the ANCS
with SMS 114 and, thereby, contemplates the combination of multiple
components regardless of their functionality. 3PR Resp. Br. 9. As such, we
also agree with Requester that it would have been obvious to combine other
components within Radia's system, as the combination is nothing more than
a design choice.[3]

Additionally, Patent Owner argues that while Radia teaches that the
router can be a combination of components, Radia teaches that each of the
combined components must forward packets. Reb. Br. 12. Thus, Patent
Owner is arguing essentially that Radia teaches away from the combination
of components proposed by Requester. However, we are not pointed to, and
do not find in our review, sufficient evidence in the reference that only
allows the combination of components to be combined if they are able to
forward packets. Teaching an alternative or equivalent method does not

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[3] Making elements of a device integral or separable is considered to be an
obvious design choice and does not render an invention patentable. *See In re
Larson*, 340 F.2d 965, 968 (CCPA 1965); *In re Dulberg*, 289 F.2d 522, 523
(CCPA 1961).

teach away from the use of a claimed method. *See In re Dunn*, 349 F.2d 433, 438 (CCPA 1965).

Combination of Radia and Stockwell

Lastly, Patent Owner contends that the combination of Stockwell and Radia does not teach the disputed limitations addressed above. App. Br. 16-18; Reb. Br. 13. However, as indicated above, we find that the combination of Radia, Wong, and Stockwell does, in fact, teach the disputed limitations. Additionally, we find that the Examiner has adopted Requester's rejections identifying the relevant portions of each of the references relied on throughout the rejection. *See generally* Ans. 21 which incorporates the rejections from Exhibit BB, pp. 2-47. To the extent that the Examiner and Requester relied on the knowledge of one of ordinary skill in the art to combine the teachings of the references, this practice is consistent with current case law. For example, the Supreme Court explains

> Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. *See In re Kahn*, 441 F.3d 977, 988 (C.A.Fed.2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can

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> take account of the inferences and creative steps that a person
> of ordinary skill in the art would employ.

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 418 (2007).

In this case, the conclusions of obviousness are clearly articulated and based on detailed factual findings that are supported by the references of record. *See* Ans. 21 which incorporates the rejections from Exhibit BB, pp. 2-47. Additionally, the reason a skilled artisan would combine the references is provided by the Examiner. Ans. 12. For example, the Examiner explains that it would have been obvious to combine Stockwell and Radia in order to improve filtering capabilities of routers. Ans. 12. We find no error in the Examiner's reasoning, and Appellants have failed to specifically address the Examiner's findings.

Thus, for all of the reasons stated *supra*, we sustain the Examiner's adoption of Requester's rejection of claims 16-24, 26, 27, 36-43, and 68-90 under 35 U.S.C. § 103(a) as obvious over Radia, Wong, and Stockwell.

Claims 16-24, 26, 27, 36-43, and 68-90 - Other proposed rejections

Our conclusions above address the patentability of all of the claims on appeal and, thus, render it unnecessary to reach the propriety of the Examiner's decision to adopt the proposed rejections of the same claims on a different basis. *Cf. In re Gleave*, 560 F.3d 1331, 1338 (Fed. Cir. 2009). As such, we need not reach the other proposed and adopted rejections listed above.

CONCLUSION

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The Examiner did not err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "the redirection server is configured to allow automated modification," as recited in independent claims 16-23, 36-39, and 68.

The Examiner did not err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "instructions to the redirection sever to modify the rule set are received by . . . the redirection server," as recited in dependent claim 24, or "receiving instructions by the redirection server to modify at least a portion of the user's rule set," as recited in independent claim 83.

The Examiner did not err in combining Radia, Wong, and Stockwell.

DECISION

We affirm the Examiner's decision to adopt the rejection of claims 16-24, 26, 27, 36-43, and 68-90 (all of the claims subject to this appeal) under 35 U.S.C. § 103(a) as obvious over the combination of Radia, Wong, and Stockwell.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

Requests for extensions of time in this *inter partes* reexamination proceeding are governed by 37 C.F.R. § 1.956. *See* 37 C.F.R. § 41.79.

AFFIRMED

12

Appeal 2014-007780
Reexamination Control Nos. 95/002,035
and 90/012,342 (merged)
Patent 6,779,118 B1

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

40401   7590   02/12/2015
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EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
02/12/2015	PAPER

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.

PTOL-90A (Rev. 04/07)

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

———————

BEFORE THE PATENT TRIAL AND APPEAL BOARD

———————

LINKSMART WIRELESS TECHNOLOGY, LLC,
Patent Owner,

v.

CISCO SYSTEMS, JAMES J. WONG
Third Party Requester.

———————

Appeal No. 2014-007780
Application Nos. 90/012,342 and 95/002,035 (merged)
Patent No. 6,779,118 B1

———————

Oral Hearing Held: January 28, 2015

———————

Before JAMES T. MOORE, MARC S. HOFF, and DAVID M. KOHUT,
Administrative Patent Judges.

The above-entitled matter came on for hearing on Wednesday, January 28, 2015, commencing at 10:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Appeal No. 2014-007780
Reexamination Control No,. 90/012,342
and 95/002,035 (merged)

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1   P R O C E E D I N G S

2   - - - - -

3   USHER: Good morning. Calendar Number 39, Appeal Number

4 2014-007780, Mr. Wood and Mr. Foster.

5   JUDGE MOORE: Welcome, please be seated. We are here for

6 Appeal Number 2014-007780, and just a few preliminary matters before we

7 get started. First off, if you have any electronic devices, it's always

<center>2</center>

1   embarrassing when they go off in the middle of the hearing, so make sure

2   they're muted or off. Second, you can assume that we are intimately familiar

3   with the record in this case, so you need not give us an extensive

4   background, unless you feel it's necessary, to your presentation.

5   And thirdly, in terms of how we proceed here, the Patent Owner

6   has the appeal here, so we're presuming you'll go first, naturally, and you'll

7   have a chance to answer what they raise and you'll get, if you choose to

8   reserve some time for rebuttal, some time for rebuttal.

9   How much time do we have reserved in this room right now?

10 About an hour? So, within that constraint, let's try and keep it within the

11 hour, if we can.

12   And with all that said, Patent Owner may proceed to the podium.

13   MR. WOOD: Thank you very much. Just a matter of a couple of

14 preliminary remarks, we're going to focus on a particular aspect of this

15 invention, which is the modification of the rule set within the redirection

16 server, and what the criteria for that are, what the criteria for that are.

17   JUDGE MOORE: One moment before we continue, we are

18 having some technical issues with our remote judge in Florida. I don't know

19 if he's still there, and I want to make sure that he is still there. So, what I am

20 going to do is do a back-up audio link right now, so just hold tight for a

21 second.

22   MR. WOOD: Sure.

23   **(Brief pause in the proceedings.)**

24   JUDGE MOORE: Apologies for the interruption.

3

1   MR. WOOD: Not a problem.

2   I would like to reserve a little bit of time at the end as rebuttal time.

3   We have elected in this appeal to focus primarily on, as I said, the

4   redirection server and the modification of the redirection server while a

5   session in process. There was other arguments that were made in the course

6   of this that we are not foregoing. We indicated that in our brief. The

7   specific one is the redirection process itself and the fact that that redirection

8   occurs at the -- at the user side rather than at the Internet. And, frankly,

9   that's the APA, which is used as prior art, related just to that redirection

10   process in the Internet, not at the user location.

11   And we're not giving up that, but that's not the focus for argument

12   today.

13   JUDGE MOORE: It's in the brief, of course?

14   MR. WOOD: Yes, yes.

15   Let me, first of all, discuss Coss. This is really a procedural issue.

16   We have filed declarations to remove Coss as a reference. The basis of that

17   removal is that two declarations were filed showing that an actual reduction

18   to practice had occurred approximately 30 days, a little bit more than 30

19   days before the filing of the Coss reference, and the examiner has continued

20   to insist upon showing diligence to reduction to practice, and, of course, our

21   position is that diligence is not required, and the reason diligence is not

22   required is because the reduction to practice, the actual reduction to practice

23   and testing of this invention was memorialized in a document 30 days before

24   the filing of Coss.

4

1   That document discloses the invention in its entirety, and the

2   Patent Office has so indicated in prior reexamination proceedings, because

3   that was, in fact, the document that was filed several months later as the

4   provisional patent application. And that provisional patent application was

5   found by the Patent Office to fully encompass and support the claims that

6   were originally filed. So, we think that the whole issue of diligence is a

7   non-issue, and that the examiner is wrong on the law on that issue.

8   The second thing about Coss is that the examiner used the wrong

9   standard in determining whether the submission and the declarations were

10   sufficient. The examiner, he used the standard of an interference

11   proceeding, which is wrong. This is not an interference proceeding, we're

12   trying to swear behind the Coss reference, and it's not the each element test

13   that the examiner applied, but it's the possession of the invention test that's

14   the standard for removing a reference, and we think that's shown clearly by

15   the fact that this is the very document that was subsequently filed for the

16   provisional, and, of course, the Patent Office said that it was sufficient to

17   support the claims and support disclosure of the patent itself.

18   So, as a preliminary matter, we think Coss ought to be removed as

19   a reference. Furthermore, Coss simply doesn't teach the core of where this

20   invention is and what we're arguing today, which is modification of the rule

21   set during -- the modification of the rule set, at the user side, in the

22   redirection server, while the user is, in fact, sending data to the Internet and

23   sending it back.

24   So, we think that Coss isn't a good reference in any event.

5

1   I would like to discuss --

2   JUDGE KOHUT: You talk about the user side, where is that in

3 your claims where it's at the actual user side? I notice in your claims it talks

4 about the redirection server is configured to allow this, are you saying that

5 the redirection server is actually a part of the user computer?

6   MR. WOOD: We're not saying that, although it could be. I

7 would -- I believe -- direct your attention to I think for this purpose, claim

8 83, where it says, "in a system comprising of redirection server connected

9 between the user computer and a public network," which says that it's not on

10 the public network, it's between that, it's before the public network.

11   So, that's what I'm referring to. And all of the method claims recite

12 that. I think from the standpoint of the apparatus claims, that can be

13 reasonably -- reasonably inferred from the limitations that are there.

14   JUDGE KOHUT: Okay.

15   MR. WOOD: By the way, claim 83 is really very similar to claim

16 25, which was cancelled at some point, but is still the claim upon which a

17 number of dependent claims depend.

18   So, let me talk about the apparatus claims, and I'm going to focus

19 on claim 16. All of the other claims include these limitations, and I think

20 there's several key limitations here. One is that the rule set must be

21 programmed into the redirection server. It is the thing -- it is the program,

22 the software that controls and, of course, that's another feature of this, in

23 paragraph 2 of claim 16, which is the rule set is used to control data passing

24 between the user and the public network. So, we not only have the rule set

1   programmed into the redirection server, we also have it controlling data

2   during the user session, passing between the user and the public network.

3   I would point out that the whole concept of the process happening

4   while the user is using the Internet is supported by this fact that it's

5   controlling the data from the user to the public network. That can only occur

6   while the user is, in fact, using the Internet. That's obvious.

7   JUDGE MOORE: Judge Kohut can still hear you.

8   MR. WOOD: Yes. The fourth thing, or the third thing that's

9   important is the correlation. This is the correlation between the temporary

10   assigned network address and the rule set. The rule set is correlated with

11   that temporarily assigned network address, which, again, indicates that there

12   is a connection that allows communication to happen during the user

13   session. That temporarily assigned network address has something that

14   needs to be there to allow the Internet to know where to send the

15   information. And, so, that again indicates that this all must happen in a user

16   or during a user session.

17   And then, the last aspect of the claims is modification of the rule

18   set, and that modification must be of the rule set actually programmed in the

19   redirection server. It's not the modification of anything else, it's the

20   modification of the rule set, and it's the modification while the rule set is in

21   use, processing data, and while the user is -- the rule set is correlated to the

22   temporarily assigned network address, which indicates the user is involved

23   in a session.

24   Let me have just a moment.

7

1   Claim 24, interestingly, on just a side note here, has a requirement

2   that the redirection server must do the modifying as well. And I would say

3   that that's inherent in the other limitations that are there, because the

4   redirection server actually does the modification. I'll get to that point a little

5   later.

6   JUDGE MOORE: Does it do the modification or is it configured

7   to allow automated modification?

8   MR. WOOD: Good point. The claims require that it be

9   configured to allow modification, and the reason for that is because that not

10   every data transfer causes a modification. It's only some of them. So, the

11   indication of when a modification is to be made comes from someplace else.

12   Hence the meaning of "allow." It would be anomalous to say that the

13   redirection server allows modification, and yet doesn't ever do it. What

14   would be the purpose of the redirection server if it didn't actually do the

15   modification that it allows. The rule set is actually the program of the

16   redirection server.

17   So, to say that it allows modification but then no modification ever

18   occurs, would actually read redirection server out of the claim. It would be

19   useless, which is not a reasonable interpretation.

20   JUDGE MOORE: Let me ask this, what does the Patent Owner

21   think "configured to allow automated modification" means?

22   MR. WOOD: Configured to allow automated modification,

23   configured is the same thing as programmed. So, when we talk about the

24   redirection server being programmed, we're talking about it being

8

1   reconfigured or being configured. So, it is the program that then allows that

2   change in the -- in the rule set to actually occur.

3   It's under the direction of, it's affected by, or caused by the

4   redirection server, but it's the configuration, the program itself, part of the

5   rule set, that actually enables the change to be made. That's what that --

6   that's what that means.

7   JUDGE MOORE: Thank you.

8   JUDGE KOHUT: Could it not also mean that we have another

9   device that wants to gain access to the redirection server and that redirection

10 server allows that device to input the new modification to the rule set?

11   MR. WOOD: I don't think so, but even taking that interpretation,

12 there's nothing in the -- there's nothing in the cited references which suggests

13 or teach that that ever happens. There is at most an authorization or an

14 instruction or a condition that's external to the rule set that triggers the action

15 of modification, but there's nothing in any of the references that says

16 anything outside of the redirection server actually causes that. Again, if

17 there was something outside that actually caused the change in the

18 redirection server or in the rule set in the redirection server, then what do

19 you need the redirection server for in terms of allowance? It would just

20 make the change. It would enforce the change, the redirection server would

21 have nothing to do with it, and in effect, you would be reading that

22 limitation out of the claim. And you can't do that in a proper and reasonable

23 interpretation of the claim. So, that would be my response to that question.

9

1 I'm going to focus on claim 83, the basic four elements of that

2 claim are the same thing that we talked about before in connection with

3 claim 16, the terminology is a little bit different. For example, "the

4 redirection server must contain," the word "contain" is used. That's the same

5 thing as programmed. The rule set still has to be correlated with a

6 preliminary -- temporarily assigned network address. There's a step of

7 modifying the rule set, and in that claim, it actually explicitly says that that's

8 in the rule set and while it is correlated. Those are requirements of the claim

9 as well.

10 And that is actually in paragraph 1, and I'm going to refer to claim

11 83. It's in paragraph 1 of 83. By the way, the correlation and contained

12 elements are in the preamble of that claim.

13 The step of receiving instructions by the redirection server to

14 modify means that the redirection server actually does the modification. If

15 the modification was not done by the redirection server, then who's doing

16 the modifying? What's doing the modifying? That claim clearly indicates

17 that it is the redirection server that receives that instruction and it's the

18 redirection server that actually does the modification of the rule set. And

19 then, of course, there's the controlling of data which we discussed earlier.

20 So, those are the essential aspects of the claims that are in issue

21 here.

22 JUDGE MOORE: Hang on a second, you just confused me.

23 Claim 83, in that last wherein clause, "includes the step of receiving

24 instructions by the redirection server." These are instructions issued by the

10

1   redirection server, or is this being received by, you know, they're received

2   by the redirection server?

3   MR. WOOD: It's instructions being received by the redirection

4   server.

5   JUDGE MOORE: Okay, all right, I thought I misheard you there,

6   thank you.

7   MR. WOOD: Yes. No, it's the instructions received by the

8   redirection server.

9   JUDGE MOORE: Not issued by that?

10   MR. WOOD: Not issued.

11   Okay, let me talk about Willens. And I want to talk about Willens

12 just briefly, because Willens in the examiner's rejections have talked about a

13 permitted site list and they've also talked about a requested site list. The

14 examiner confuses the two. There's nothing in Willens that talks about the

15 permitted site list ever being downloaded into cash or ever being

16 downloaded into the communication server. The only thing that's stored in

17 cache is the list of sites that are requested. Those are not sites that are on the

18 rule set or part of the rule set or even part of the central server 18.

19   That is the core of the examiner's position on Willens, is that site

20 list, in cache, in fact is the same as -- or is in the cache and therefore is the

21 same as the rule set, and because it's in cache, and because somehow it's

22 modified in the central server, that somehow it's updated during the process

23 of processing data.

11

1   It's just simply not the case. There's nothing in Willens that talks

2   about that permitted site list that's stored in the central server 18 ever being

3   downloaded to the communication server 14. In fact, Willens teaches

4   against that, because the whole point of Willens was to be able to centralize

5   this large set of permitted sites so that you wouldn't have to download those

6   and use up memory of a number of user computers in the system. That was

7   the whole point.

8   And if you read the -- if you read the reference carefully, you'll

9   find that that -- the only thing that's stored in cache is a list of sites that are

10   requested by a user. That list of sites can be sites that are allowed, or sites

11   that are not allowed. How you determine that is you go to the central server,

12   and once it's in the central server, then it will give an allow or disallow after

13   comparing that site with what's in these permitted site lists in their memory,

14   and that will go back and somehow flags the permitted -- excuse me, sites --

15   will flag the requested website, and that flag is somehow then associated

16   with that site in cache.

17   And if you then ask for that site again, it will go to cache, it will

18   say, oh, we previously allowed that site, therefore it must be on the

19   permitted list. And if it's on the permitted list, we will allow it, without

20   going and checking it. But again, there's nothing that talks about that

21   permitted site list being stored or transferred or downloaded into cache.

22   The examiner's argument, then, for modification of the rule set

23   fails, because if you don't change the site list in cache, then you can't change

24   the rule set, because the assumption is that the permitted site list stored in

12

1   cache, which it's not, is part of the rule set. And if it can change, then the

2   rule set can change, and that simply isn't the way that Willens works.

3   And, in fact, Willens teaches against that in several locations. In

4   fact, I would point to column 4, and lines about 40 through 45. And also

5   column 5 at approximately 38 through about 45, lines. Both of which

6   describe that the change, that the modification only happens to a site list,

7   never a rule set, only happens to the site list, and only happens when the site

8   list is stored in the central server.

9   That can never be correlated, that change can never be correlated

10 with a temporarily assigned network address, as the claims require, if it's

11 changed in the central server. So, it just doesn't meet that limitation of the

12 claim.

13   JUDGE MOORE: All right, you have about five minutes left, I

14 just wanted to give you a heads-up, if you wanted to reserve some of that

15 time.

16   MR. WOOD: Okay, let me just touch on Radia.

17   JUDGE MOORE: And I know Judge Kohut will have some

18 questions for you.

19   MR. WOOD: Okay. Radia also doesn't teach modification of the

20 rule set. The examiner's argument that the ANCS and the router can be

21 combined and the combination of the two can result in a, you know, a

22 redirection server where the rule set is changed.

23   JUDGE KOHUT: Why is that not the case? I know the Third

24 Party Requester and the examiner have both said that Radia's router, which

1   they're considering the redirection server, actually receives instructions to

2   modify the rules from the ANCS. Why is that not the same thing as you're

3   claiming?

4   MR. WOOD: Except that Radia doesn't teach that. Radia does not

5   teach that there's anything that's done by way of modifying the rule set that's

6   actually programmed in the router once it's programmed in the router. What

7   happens is, the rule set is created by the SCM, or SMS -- yeah, SMS, and the

8   ANCS, they collaborate on these four initial profile rules, and they create --

9   and the ANCS then creates a final rule set, which is downloaded to the

10   router. After that it's never changed. There's nothing in Radia that ever

11   teaches that once the ANCS downloads that rule to the router, that that

12   router ever does anything to change, and that the ANCS never does anything

13   to modify the rule set.

14   It may completely change the rule set for a different user, for

15   example, but once that user is starting to use it and there's a -- and there's an

16   interaction between the Internet and the user, that rule set stays the same.

17   Radia doesn't teach otherwise.

18   JUDGE KOHUT: Because I think the Third Party Requester

19   brought up in column 7 of the Radia reference that the router is actually

20   reconfigured. Have you addressed that in your briefs?

21   MR. WOOD: Let me look at that just a moment. This is page, or

22   column 7, and what lines?

23   JUDGE KOHUT: Roughly 5 through 9. Or 8.

1   MR. WOOD: Well, when it talks about reconfiguring, it's talking

2 about downloading a new rule set, completely new rule set for another user,

3 for example. It's not talking about reconfiguring during the process of the

4 user transmitting data back and forth to the Internet during a user session.

5 Obviously, the ANCS and the SMS can change the rule set if new users get

6 on, and I think that's all that that's referring to. It's not talking about

7 changing or reconfiguring that rule set during a single user session.

8   JUDGE KOHUT: Okay.

9   JUDGE MOORE: We will not count that time against you,

10 answering Judge Kohut's questions.

11   JUDGE KOHUT: Actually, I have one more question for you,

12 before you leave the podium.

13   MR. WOOD: Sure.

14   JUDGE KOHUT: One of the -- I'm getting some feedback, sorry.

15 One of the or a couple of the dependent claims, 26, 27 and 40 through 43 are

16 dependent upon claim 25, which is not at issue in this appeal. Claim 25 was

17 previously cancelled. What was your intent with the dependent claims

18 there?

19   MR. WOOD: Well, we think that the dependent claims include

20 this, you know, the patentable focus of what we're dealing with here, which

21 is modification of the rule set during a user session. We rewrote that claim

22 as claim 83, and so it was I think largely duplicate at that point. So, we

23 recreated claim 25 as claim 83.

15

1   JUDGE KOHUT: So, were those dependent claims supposed to be

2   dependent upon 83, then?

3   MR. WOOD: Yeah, there was a slight difference in claim 83, but

4   those dependent claims are largely parallel to the dependent claims that you

5   just mentioned, dependent upon claim 25.

6   JUDGE KOHUT: Okay.

7   JUDGE MOORE: Thank you. We'll hear from the Third Party

8   Requester now.

9   MR. FOSTER: Thank you, good morning, may it please the

10 Board, I'm Theo Foster, here on behalf of Cisco Systems. With me at

11 counsel table is David McCombs, who has been signing the papers in this

12 proceeding.

13   The Patent Owner brought up a number of issues, and I'll do my

14 best to take them in turn. I guess beginning with the question of Coss as a

15 reference, and the attempt to swear behind it or to show evidence with

16 respect to it as a reference, the Patent Owner brought up the question of

17 diligence, and I believe the reason the examiner has brought up diligence is

18 because the examiner does not believe that the Patent Owner has shown

19 sufficient evidence to establish an actual reduction to practice before the

20 earliest claimed priority date of Coss.

21   And you can see that, in part, even in the Patent Owner's own

22 brief, if you look at the Patent Owner's appeal brief, at 20, you'll see that

23 they note that the examiner was not persuaded by their evidence for two

24 reasons. The second of those, the examiner notes that there's been no

16

1   attempt to show a nexus between the claim language and the documentation

2   provided with the swear behind attempted declarations.

3   And the Patent Owner's brief then doesn't address that second issue

4   at all, acknowledges that it's there, but it doesn't address it, and for that

5   reason, I would submit that an actual reduction to practice has not been

6   shown.

7   Patent Owner brought up, as far as I know for the first time here at

8   this hearing, the question of what the proper standard for evaluating their

9   evidence is, and brought up this issue of whether it's an interference standard

10 or whether different proceedings would have different standards. I don't

11 recall seeing that in the briefing, and I'm also not sure that I understand the

12 Patent Owner's distinction between showing the claimed invention and

13 showing the invention. We're here dealing with the claims and as we've

14 pointed out in the briefing, there are limitations in the claims that are not in

15 that August 1997 document that they provided. One of those that's

16 throughout all of the claims, and certainly one that was addressed in some of

17 the briefing, this concept of a temporarily assigned network address. The

18 concept itself is not in that document at all.

19   Moving on to Coss as a substantive reference and addressing it on

20 the merits, the Patent Owner suggested that Coss does not teach

21 modification of a rule set, but I have not yet seen that the Patent Owner

22 acknowledge or respond to the teaching in Coss, in column 8, lines 34

23 through 36, which the examiner has relied on for dynamic rules, and to quote

24 the Coss reference, "dynamic rules allow a given rule set to be modified

17

1   based on events happening in the network without requiring that the entire

2   rule set be reloaded."

3   I'm not sure how the examiner or how the Patent Owner -- what

4   their basis is for stating that Coss does not teach modification of a rule set

5   given that disclosure.

6   I would also point out, later on in column 8, there's a description of

7   an example dynamic rule in Coss, a one-time rule used only for a single

8   session, which appears to be the exact same concept that you find in the

9   subject patent, in the '118 patent, in columns 6 and 7, where they have a rule

10   that's applied only one time, and then removed to allow unfettered access to

11   web browsing. It appears to be the exact same concept of the one-time rule

12   that's applied once, then removed to allow the user to do whatever they wish

13   on the network.

14   Also, in some of the discussion that the Patent Owner brought up

15   with respect to claim 83, mentioned that -- it sounds like they would treat 83

16   as an exemplary claim, which I don't recall seeing that suggestion in the

17   briefing. However, the suggestion that we should infer the between

18   limitation from 83 into other claims or infer limitations from the method

19   claims into the apparatus claims certainly, again, I don't recall seeing that in

20   the briefing, and I don't know that that's necessarily the appropriate approach

21   to claim interpretation here.

22   If the panel doesn't have any questions about Coss, I can move on.

23   JUDGE MOORE: Let me check with Judge Kohut. Any

24   questions, sir?

18

1   JUDGE KOHUT: No questions.

2   MR. FOSTER: Thank you.

3   So, then moving on to Willens, the discussion about Willens, of

4   course, centers in part on Willens' disclosure of caching, and then also what

5   Willens describes as being a filter rule for a specific user, which incorporates

6   a list of sites which may be permitted or denied. And to give a little bit of

7   context here, Willens is a disclosure that's designed for protecting or at least

8   controlling Internet access from a school setting.

9   And, so, they have as an example that there might be a list of

10   websites maintained by the school's PTA or parent teacher association that

11   students either should be allowed access to or should be denied access to.

12   The specific example in Willens is playboy.com. Obviously the suggestion

13   is that that should be blocked.

14   And if you look at Willens, at figure 3, you'll see that in the top

15   right corner, there are -- in the top right corner, there are user profiles, and

16   then a specific rule set labeled FTimmy, for filter rule set for the user

17   Timmy, that has a number of rules, and this is element 54 in the figure 3, one

18   of which is the statement "permit PTA list." And then if you look below that

19   in figure 3, you see that the PTA list element 52 has some example websites

20   which are incompletely specified, but we can clearly see that the PTA list is

21   part of the filter rule for user Timmy.

22   And, so, modifying the permitted site list, the PTA list, would

23   constitute a modification of the rule set. As the Patent Owner kind of

24   described in brief, Willens teaches that the filter rule is downloaded to the

19

1   communication server 14, which we identify as being the redirection server,

2   but the PTA list itself, the whole list is generally maintained in the central

3   server, as the Patent Owner identified, the central server 18, but portions of

4   it are downloaded in response to the user's actions and the websites that the

5   user visits.

6   JUDGE MOORE: When you say downloaded, you mean to the

7   local cache or to the remote user?

8   MR. FOSTER: Yes, downloaded to the cache, downloaded in

9   response to a request or a question of should this user Timmy be allowed

10 access to website XYZ. The communication server 14 would send that

11 query to the server 18, receive back a response and then store that

12 information in its cache so that it would know if it sees site XYZ again. It

13 doesn't have to send the request again, it has that in cache.

14   JUDGE MOORE: Okay, so your position also is that, say this

15 PTA list on the bottom right, this www.zzz, that's a rule, essentially?

16   MR. FOSTER: It's part of a rule, yes. As I understand it, the

17 Patent Owner has drawn a distinction between a rule and a site list, a site list

18 is just XYZ, a rule would be permit access to XYZ.

19   JUDGE MOORE: And by putting XYZ on the permit list versus

20 the do not permit list, that in its entirety is a rule?

21   MR. FOSTER: That is correct. That is my understanding.

22   JUDGE MOORE: Okay.

1   MR. FOSTER: And we see right -- 54, you see the explicit

2 disclosure there, and this is figure 3 of Willens, 54 has permit PTA list, so

3 the PTA list is then part of that permit rule.

4   So, when user Timmy goes to XYZ, the communication server

5 determines that XYZ should be permitted, and then stores that in cache. The

6 rule, as programmed in that communication server 14, is modified, and I

7 would note, right, that all of the claims don't recite that the modification has

8 to be a large substantive reprogramming, a wholesale change or anything

9 like that, the claims recite modifying at least a portion of a rule set, and in

10 the disclosure of the '118, the rule set can include data about sites that should

11 be permitted or denied.

12   So, modifying the PTA list, to take a site on or take a site off,

13 would constitute a modification of a part of the overall rule permit PTA list,

14 and so the automated modifications that occur as described in Willens are

15 clearly a modification of rules, and through the caching mechanism, that

16 information gets downloaded and those modifications become active on the

17 communication server 14, which is the redirection server.

18   Are there any further questions about Willens?

19   JUDGE KOHUT: No questions here.

20   MR. FOSTER: So, moving on, then, to Radia, I believe the Patent

21 Owner brought up two issues of, first, this distinction between the Radia's

22 router and the ANCS server. The first point I would make there, right,

23 there's this question about receiving instructions to perform the modification,

24 and if we look at Radia in column 10, around lines 7 through 11, we'll see

21

1   the description that the ANCS reconfigures the network components, which

2   would include the router, reconfigures the network components using a

3   protocol that is generally applicable to components of the network, such as

4   simple network management protocol, SNMP.

5   So, the ANCS is not somehow with some magic hand going in and

6   manipulating the memory structures of the router, it's sending messages over

7   the network, using an established protocol, SNMP, which are essentially

8   instructions to make a modification, to make a change to the programming,

9   to the rule sets in the router to change its functioning.

10   So, I'm not entirely sure exactly where the Patent Owner's position

11 or interpretation is. There does seem to be some inconsistency, at least I

12 have difficulty following. At times, the Patent Owner has argued that the

13 claims require receiving instructions, but then at times the Patent Owner has

14 made some arguments, certainly we've seen in the discussions before the

15 examiner that note it's the rule set itself has to modify itself somehow, that

16 it's not based on external instructions, that the rule set is self-modifying.

17   I would submit that certainly either way, Radia has sufficient

18 teaching of the modification, certainly with the disclosure here of using

19 SNMP to send instructions, and, you know, if we compare that SNMP

20 teaching to the Patent Owner's brief at 15, the Patent Owner stated the only

21 possible way for modification of the rule set to occur, if the instructions are

22 received by the redirection server, is for the redirection server to do the

23 modification in response to those instructions.

22

1   So, certainly I would state that with Radia, sending SNMP

2   instructions from the ANCS to the router, obviously the router is interpreting

3   those instructions, making those modifications, as directed by the ANCS.

4   Then Patent Owner also brought up this discussion or this concept

5   of the reconfiguring and the suggestion that the only reconfiguring that

6   Radia performs is to distinguish between different users, but then within

7   what they term a user session, there is no reconfiguring within Radia. And I

8   don't believe that that's correct.

9   If we look at Radia in column 7, around line 38, you'll see that the

10   context here of Radia is much like what the Patent Owner has described

11   generally, it's not in their claims, but as they've generally described the

12   purpose of what they want to claim, the context is in a login, in Radia. The

13   concept is that a user can connect their computer, and they initially will

14   receive what's termed in Radia a login profile, which limits their access, and

15   essentially the only things that the user can access are the servers that control

16   the login process, to authenticate and confirm who they are and what access

17   they should get.

18   Once the user does log in, that's when the reconfiguring occurs

19   that, you know, we see in column 10, I believe it is. In any event, the

20   reconfiguring of the filter rules in the router, after the user gets logged in, so

21   that they receive the filter rule set that's appropriate for that user and for that

22   level of access within the network that they should have.

23   So, the context is quite appropriate to the claims at issue here, that

24   they do deal with reconfiguring the router during a so-called user session,

1   and so the Patent Owner's attempt to distinguish there based on context is

2   simply incorrect.

3   Are there any questions from the Board?

4   JUDGE KOHUT: None for me.

5   JUDGE MOORE: All right, thank you.

6   MR. FOSTER: Very good.

7   JUDGE MOORE: We understand your arguments.

8   MR. FOSTER: Thank you.

9   JUDGE MOORE: Counsel for Patent Owner, you have five

10 minutes.

11   MR. WOOD: I'll try to be fast.

12   Regarding Radia, the last comment that was made, I think is

13 incorrect. If you look at figures 6 and 7, what that section that was referred

14 to is discussing is the process of creating the rule set, and that rule set

15 includes filter profiles, four filter profiles. Those filter profiles are not

16 downloaded to the router, and figure 6 and 7 show that, because it says

17 "generated filter profile, download filter profile to ANCS," not the router.

18 "Reconfigure network components, filter IP packets in accordance with

19 filtering profile." So, it's only after those filtering profiles are downloaded

20 to the ANCS, and the ANCS uses those to create a rule, that it's downloaded

21 to the filter.

22   The same thing with figure 7 talks about "wait for allocation of IP

23 address, generate login filter profile sequence," and then "download login

24 filtering profile to ANCS," and only then, after the ANCS works up a rule

24

1   set, is it downloaded to the router. Nothing in that talks about changing a

2   filter that's downloaded into a router. Those are all filter profiles, not filters.

3   With respect to the Coss, a statement was made that the standards

4   arguments that was made about whether Coss talked about or whether it was

5   an interference and so forth, there's a two-page discussion of that in the

6   rebuttal brief at page 13 and 14. So, that was included.

7   And then, finally, Willens figure 3, I think it's noteworthy that in

8   figure 3, Willens distinguishes between site list and filters. The fact that it

9   says "permit PTA site list" doesn't mean that the individual sites that are

10   there are stored there. That's simply the name of the list that is found

11   elsewhere. That's an identifier, nothing more.

12   So, when it says "PTA list" doesn't mean that all of the sites that

13   are there are downloaded. In fact, as I mentioned before, Willens teaches

14   against that. If it included all of the site list and PTA list included 10,000

15   sites that were permitted, then all of those 10,000 sites would have to be

16   downloaded to the communication server, and Willens teaches against that.

17   That's exactly the point that Willens is trying to avoid.

18   And finally, I would note that local cache 50, if, in fact, PTA list

19   was actually stored in the local cache 50, why isn't it there? What's there are

20   the requested sites that a user wants access to. So, I think that the arguments

21   by opponent are incorrect.

22   JUDGE MOORE: Thank you. We understand your argument.

23   Judge Kohut, have you any further question?

24   JUDGE KOHUT: I do not.

<center>25</center>

1   JUDGE MOORE: Judge Hoff?

2   JUDGE HOFF: No, I do not.

3   JUDGE MOORE: Well, thank you very much for a well argued

4   session. We appreciate your professionalism in this case, and we look

5   forward to seeing you again before the Board. We understand your

6   arguments and this case it's taken under advisement. Thank you for

7   attending, this hearing is complete.

8   **(Whereupon, at 10:53 a.m., the hearing was concluded.)**

Appeal No. 2014-007780
Reexamination Control No,. 90/012,342
and 95/002,035 (merged)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichiro Ikudome

Appeal No. 2014-007,780

Merged Reexam Proceeding No. 95/002,035 (Main)
and Reexam Proceeding No. 90/012,342
(Based on US 6,779,118 C1)

Conf. No. 1745
Conf. No. 5786

Examiner Jalatee Worjloh
Art Unit 3992

Filed: September 12, 2012 (Main) and June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

PATENT OWNER'S CONFIRMATION OF ATTENDANCE OF ORAL HEARING

Mail Stop PTAB
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

In connection with the above-identified merged Reexamination Proceedings, Patent Owner confirms that a Request for Oral Hearing Under 37 CFR §41.73 and fee were timely filed with the USPTO by Patent Owner on May 6, 2014. Accordingly, Patent Owner timely files this response to the Notice of Hearing mailed by the Office on September 25, 2014 by October 16, 2014, and respectfully confirms attendance in person of the Hearing scheduled for January 28, 2015. No more than three persons total will be attending for Patent Owner.

Evidence of service of this Confirmation is attached hereto as the last page.

Please direct any questions to the below-listed telephone number or e-mail address.

Respectfully submitted,
Linksmart Wireless Technology, LLC

Date: October 15, 2014

_____/Abe Hershkovitz/_____
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RI1341006F-A13; AH/pjj

Certificate of Service

It is hereby certified that the attached PATENT OWNER'S CONFIRMATION OF ATTENDANCE OF ORAL HEARING and a copy of this Certificate of Service <u>are being served on October 15, 2014 by first class mail</u> on third party requesters at third party requesters' addresses of record:

David L. McCombs
Haynes & Boone, LLP   [for *inter partes* Proceeding No. 95/002,035]
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Redwood City, CA 94065

         /Abe Hershkovitz/
Abraham Hershkovitz

Electronic Acknowledgement Receipt

EFS ID:	20428323
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	15-OCT-2014
Filing Date:	08-JUN-2012
Time Stamp:	21:47:53
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D-A13_Transmittal-of-POs-Conf-of-Attnd-of-Oral-Hrg.pdf	131270 464f9f3103ef680a2bca05c8fccf2a8d0a422acb	no	1

Warnings:	
Information:	

| 2 | | RI1341006F-R1341006D_Cnfrmtn-of-Attnd-of-Oral-Hrg-and-Cert-of-Srvc.pdf | 121103 | yes | 2 |
| | | | ead6757ddc7568bbf3371a0bfa840c53a6c45edb | | |

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Confirmation of Hearing by Appellant	1	1
Reexam Certificate of Service	2	2

Warnings:

Information:

Total Files Size (in bytes):	252373

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.

<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.

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Inventor: Koichiro Ikudome et al.

Appeal No. 2014-007,780

Reexamination Proceeding 90/012,342
(based on U.S. Patent No. 6,779,118)

Confirmation No.: 5786

Reexamination Filed: June 8, 2012

Examiner: Jalatee Worjloh
Art Unit: 3992

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

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

Honorable Commissioner:

Transmitted herewith is Patent Owner's Confirmation of Attendance of Oral Hearing in connection with the above-captioned matter.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims: **20**	**20**	**0**	x $40=	$	x $80=	$
Indep. Claims: **3	**3**	**0**	x$210=	$	x$420=	$
Extension Fee for **0** Months				$		$
Other:				$		$
Other:				$		$
Other:				$		$
			Total:	$	Total:	$

___ Fee Payment made through EFS-Web.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
X The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16 and 1.17, which are required for entry of the papers submitted herewith, and any fees which may be required to maintain pendency of this application, to Deposit Account No. 06-1358.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be required to maintain pendency and complete issuance of this application to Deposit Account No. 06-1358.

Respectfully submitted,

Date: October 15, 2014

/Abe Hershkovitz/
Abraham Hershkovitz
Registration No. 45,294

R1341006D.A13; AH/pjj

The United States Patent and Trademark Office
PATENT TRIAL AND APPEAL BOARD

HAYNES AND BOONE, LLP IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

Appeal No: 2014-007,780
Appellant: David L. McCombs(3RD PTY REQ), CISCO
Reexam Control No: SYSTEMS, et al.
Hearing Room: 95/002,035
Hearing Docket: D
Hearing Date: B
Hearing Time: Wednesday, January 28, 2015
Location: 10:00 AM
                      Madison Building - East Wing
                      600 Dulany Street, 9th Floor
                      Alexandria, Virginia 22313-1450

NOTICE OF HEARING
RESPONSE REQUIRED WITHIN 21 DAYS

Your attention is directed to 37 CFR § 41.73. The above identified appeal will be heard by the Patent Trial and Appeal Board on the date indicated. Hearings will commence at the time set, and as soon as the argument in one appeal is concluded, the succeeding appeal will be taken up. **The time allowed for argument is 30 minutes** for each appellant or respondent who has requested an oral hearing, unless additional time is requested and approved before the argument commences. **As the hearing relates to an appeal of a reexamination, the hearing will be open to the public.**

Pursuant to § 41.73(d), if any other party to the appeal desires to participate in the oral hearing, but did not request an oral hearing pursuant to § 41.73(d), i.e., within two months after the mailing date of the Examiner's Answer, then this other party will be permitted to participate in the hearing by filing a separate request for oral hearing and the fee set forth in 37 C.F.R. § 41.20(b)(3) within 21 DAYS of the mailing date of this Notice, as well as a confirmation of attendance at the oral hearing.

CONFIRMATION OF ATTENDANCE OR WAIVER OF THE HEARING IS REQUIRED WITHIN **21 DAYS** OF THE MAILING DATE OF THIS NOTICE. Failure to respond will be treated as a waiver of your request to participate in the oral hearing. If you are no longer interested in participating in the oral hearing, you must still file a waiver of oral hearing with the Board. This allows the panel to promptly act on the appeal without waiting for the oral hearing date.

Confirmation or waiver of the hearing should be indicated by completing the form below and returning it to the Board. This form may be filed with the Board by any one of the following three alternative methods:

1. **PREFERRED**: Via the USPTO Electronic Filing System (EFS) at

   http://www.uspto.gov/patents/process/file/efs/

2. Facsimile transmitted to: The USPTO Central fax number (official copy): **(571) 273-8300**
   and the PTAB Hearing fax number (courtesy copy): **(571) 273-9797.**

3. By mail at the PTAB mailing address: Patent Trial and Appeal Board
   United States Patent and Trademark Office
   P.O. BOX 1450
   Alexandria, Virginia 22313-1450

In all communications relating to this appeal, please identify the appeal by its number.

CHECK ONE:
(✓) I previously filed my oral hearing request pursuant to 37 C.F.R. § 41.73(b).
( ) I am now filing my initial request to participate in the oral hearing pursuant to 37 C.F. R. § 41.73(d). A request for oral hearing and the fee set forth in 37 C.F.R. § 41.20(b)(3) are either attached to this hearing communication or have already been submitted.

CHECK ONE:
(✓) IN-PERSON HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*
( ) TELEPHONIC HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*
( ) VIDEO HEARING - ATTENDANCE CONFIRMED *(EFS-Web selection: Confirmation of Hearing by Appellant)*
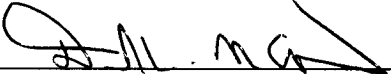( ) HEARING ATTENDANCE WAIVED *(EFS-Web selection: Waiver of Hearing by Appellant)*

To aid the oral hearings staff in scheduling hearing rooms, please indicate the total number of participating and observing attendees if more than three are expected: 2
To aid the judges in determining whether any conflicts exist that may require a recusal, please list in the 'Comments' section the names of any additional person(s) who will be participating in the oral hearing. (Upon arrival, all persons presenting arguments must sign in at the Usher's desk.)

Comments/Special Requests:

_____

_____

DAVID L. McCOMBS

Typed or Printed Name of Attorney/Agent/Appellant

_32,271_

Registration No.

( ) PATENT OWNER   (✓) THIRD PARTY REQUESTER

Signature of Attorney/Agent/Appellant

OCT 7, 2014

Date

The 'Hearings' tab of the PTAB webpage http://www.uspto.gov/ip/boards/bpai/index.jsp provides additional information about oral hearings.

Please direct other inquiries to the PTAB Hearings Clerk at 571-272-9797.

cc: Patent Owner

JACOBSON HOLMAN HERSHKOVITZ PLLC
400 SEVENTH STREET N.W. SUITE 600
WASHINGTON, DC 20004

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the Confirmation of Attendance of Hearing by Third Party Requester was served on:

HERSHKOVITZ & ASSOCIATES, PLLC
2845 DUKE STREET
ALEXANDRIA, VA 22314

the attorneys of record for the assignee of USP 6,779,118 and

JAMES J. WONG
2108 GOSSAMER AVE.
REDWOOD CITY, CA 94065

the attorney of record for the requester in Control No. 90/012342, in accordance with 37 C.F.R. 1.903, on October 7, 2014.

David L. McCombs,
Registration No. 32,271

R-382533_1

Electronic Acknowledgement Receipt

EFS ID:	20346555
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	David L. McCombs/Theresa O'Connor
Filer Authorized By:	David L. McCombs
Attorney Docket Number:	R1341006-D
Receipt Date:	07-OCT-2014
Filing Date:	08-JUN-2012
Time Stamp:	12:07:13
Application Type:	Reexam (Third Party)

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		3PR_Confirmation_of_Attendance_of_Hearing.pdf	138702 1a2030fba059e0ac4ef3e13f6a19e776f82e5c74	yes	4

Multipart Description/PDF files in .zip description		
Document Description	Start	End
Confirmation of Hearing by Appellant	1	3
Reexam Certificate of Service	4	4

Warnings:	
Information:	
Total Files Size (in bytes):	138702

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.

<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>
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<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.

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

40401   7590   07/17/2014
Hershkovitz & Associates, PLLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
07/17/2014	PAPER

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.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/002,035	09/12/2012	6779118	RH341006F	1745

40401   7590   07/17/2014

Hershkovitz & Associates, PLLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
07/17/2014	PAPER

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.

United States Patent and Trademark Office

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HERSHKOVITZ & ASSOCIATES, PLLC
2845 DUKE STREET
ALEXANDRIA, VA 22314

Appeal No: 2014-007780
Inter Partes Reexamination
Control No: 95/002,035 & 90/012,342
Appellant: Koichiro Ikudomeet al.

Patent Trial and Appeal Board Docketing Notice

Inter Partes Reexamination Control No. 95/002,035 & 90/012,342 was received from the Technology Center at the Board on July 02, 2014 and has been assigned Appeal No: 2014-007780.

In all future communications regarding this appeal, please include both the Inter Partes Reexamination Control Number and the appeal number.

The mailing address for the Board is:

PATENT TRIAL and APPEAL BOARD
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

Telephone inquiries can be made by calling 571-272-9797 and referencing the appeal number listed above.

By order of the Patent Trial and Appeal Board.

CLU

cc: Third Party Requester

HAYNES AND BOONE, LLP IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

JAMES J. WONG
2108 GOSSAMER AVENUE
REDWOOD CITY, CA 94065

HERSHKOVITZ & ASSOCIATES, PLLC

PATENT AGENCY
2845 DUKE STREET, ALEXANDRIA, VA 22314
TEL. 703-370-4800 ~ FACSIMILE 703-370-4809
patent@hershkovitz.net ~ www.hershkovitz.net

Inventor: Koichiro Ikudome et al.

Art Unit: 3992

Reexamination Proceeding 90/012,342
(based on U.S. Patent No. 6,779,118)

Confirmation No.: 5786

Reexamination Filed: June 8, 2012

Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are PATENT OWNER'S REQUEST FOR ORAL HEARING UNDER 37 CFR §41.73 and CERTIFICATE OF SERVICE in the above-captioned Proceeding.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other:				$		$
		Total:		$	Total:	$

___ Fee Payment made through EFS.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
___ The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16 and 1.17, which are required for entry of the papers submitted herewith, and any fees which may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be required to complete issuance of this application to Deposit Account No. 50-2929.

Respectfully submitted,
Koichiro Ikudome et al.

Date: May 6, 2014

/Abe Hershkovitz/
Abraham Hershkovitz
Registration No. 45,294

R1341006D.A12; AH/pjj

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichiro Ikudome

Merged Reexam Proceeding No. 95/002,035 (Main)
and Reexam Proceeding No. 90/012,342
(Based on US 6,779,118 C1)

Filed: September 12, 2012 (Main) and June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Art Unit 3992

Conf. No. 1745
Conf. No. 5786

Examiner Jalatee Worjloh

PATENT OWNER'S REQUEST FOR ORAL HEARING UNDER 37 CFR §41.73

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Patent Owner respectfully submits that an Oral Hearing is desireable for proper presentation of the present Appeal, and in accordance with 37 CFR §41.73, requests that such Hearing be scheduled for the above-identified merged Proceedings.

The requisite Oral Hearing fee is being submitted concurrently herewith.

Please direct any questions to the undersigned at the below-listed telephone number.

Respectfully submitted,
Linksmart Wireless Technology, LLC

Date: May 6, 2014

/Abe Hershkovitz/
Abraham Hershkovitz
Reg. No. 45,294

HERSHKOVITZ & ASSOCIATES, PLLC
2845 Duke Street
Alexandria, VA 22314
Telephone 703-370-4800
Facsimile 703-370-4809
E-Mail patent@hershkovitz.net

RI1341006F/R1341006D ; AH/pjj

Certificate of Service

It is hereby certified that the attached PATENT OWNER'S REQUEST FOR ORAL HEARING UNDER 37 CFR §41.7 and a copy of this Certificate of Service **are being served on May 6, 2014 by first class mail** on third party requesters at third party requesters' addresses of record:

David L. McCombs
Haynes & Boone, LLP   [for *inter partes* Proceeding No. 95/002,035]
2323 Victory Avenue, Suite 700
Dallas, TX 75219

James J. Wong
2108 Gossamer Ave.   [for *ex parte* Proceeding No. 90/012,342]
Redwood City, CA 94065

_____/Abe Hershkovitz/_____
Abraham Hershkovitz

Electronic Acknowledgement Receipt

EFS ID:	18955309
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	06-MAY-2014
Filing Date:	08-JUN-2012
Time Stamp:	16:05:57
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D-A13_Transmittal-of-Req-Oral-Hrg.pdf	158723 5db4fa673c8a6d85c28ad266243e2a8bab49e9a3	no	1

Warnings:	
Information:	

Panasonic-1012

Page 75 of 1408

| 2 | | RI1341006F-R1341006D_Req-Oral-Hrg.pdf | 125239 | yes | 2 |
| | | | c294787f2bd7f66aa78966623a7bf67cd8e1ca7c | | |

Multipart Description/PDF files in .zip description		
Document Description	Start	End
Oral Hearing Request-Owner	1	1
Reexam Certificate of Service	2	2

Warnings:

Information:

Total Files Size (in bytes):	283962

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 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.
90/012,342	06/08/2012	6779118	R1341006-D	5786

95/602035

40401 7590 04/28/2014			
Hershkovitz & Associates, PLLC		EXAMINER	
2845 Duke Street		WORJLOH, JALATEE	
Alexandria, VA 22314			

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
04/28/2014	PAPER

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.

PTOL-90A (Rev. 04/07)

Transmittal of Communication to Third Party Requester *Inter Partes* Reexamination	Control No. 95/002,035 and 90012,342	Patent Under Reexamination 6779118	
	Examiner Jalatee Worjloh	Art Unit 3992	

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

┌────── (THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS) ──────┐

David L. McCombs
Haynes &.Boone, LLP
2323 Victory Avenue, Suite 700 Dallas, Texas 75219

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination prceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it <u>cannot</u> be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

Transmittal of Communication to Third Party Requester *Inter Partes* Reexamination	Control No. 90/012,342 and 95/002035	Patent Under Reexamination 6779118	
	Examiner Jalatee Worjloh	Art Unit 3992	

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

┌────── (THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS) ──────┐

James J. Wong
2108 Gossamer Ave. Redwood City, CA 94065

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination prceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

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All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
90/012,342 & 95/002,035	08 June, 2012	6779118	R1341006-D

	EXAMINER
Hershkovitz & Associates, PLLC 2845 Duke Street Alexandria, VA 22314	Jalatee Worjloh

ART UNIT	PAPER
3992	20140425

DATE MAILED:

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

Commissioner for Patents

The supplemental rebuttal brief filed April 22, 2014 by the Patent Owner has been entered.

The reexamination proceeding is being forwarded to the Board of Patent Appeals and Interferences for decision on the appeal(s).

/Jalatee Worjloh/
Primary Examiner, Art Unit 3992

PTO-90C (Rev.04-03)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Koichiro Ikudome, et al.	§	Docket No.	43614.61
Inter Partes **Reexamination**	§		
	§	Examiner:	WORJLOH, Jalatee
Patent No. 6,779,118	§		
	§	Art Unit:	3992
Proceeding Nos.: 95/002,035 and	§		
90/012,342 (merged)	§	Conf. No.	1745, 5786
	§		
For: User specific automatic data redirection system			

Mail Stop *Inter Partes* Reexam
Attn: Central Reexamination Unit
Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR ORAL HEARING

Third Party Requester Cisco Systems, Inc. hereby requests an oral hearing of this appeal. This hearing request is being submitted pursuant to and in accordance with 37 CFR 41.73. The request is timely submitted in response to the Examiner's Answer dated March 6, 2014. A certificate of service is attached herewith. The Commissioner is hereby authorized to charge the fee set forth under 37 CFR 41.20(b)(3), in the amount of $1300.00. Further, the Commissioner is authorized to charge any additional fees that may be associated with this filing, or credit any overpayment, to the Haynes and Boone, LLP Deposit Account No. 08-1394.

-1-

Respectfully submitted,

/David L. McCombs/

David L. McCombs
Registration No. 32,271

Dated: April 23, 2014
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Telephone: 972/739-8636
Facsimile: 214/200-0853
Attorney Docket No.: 43614.61

CERTIFICATE OF TRANSMISSION UNDER 37 CFR §1.8

I hereby certify that this correspondence and any corresponding filing fee is being transmitted via the Electronic Filing System (EFS) Web with the United States Patent and Trademark Office on April 23, 2014.

Theresa O'Connor

–2–

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the REQUEST FOR ORAL HEARING was served on:

HERSHKOVITZ & ASSOCIATES, PLLC
2845 DUKE STREET
ALEXANDRIA, VA 22314

the attorneys of record for the assignee of USP 6,779,118 and

JAMES J. WONG
2108 GOSSAMER AVE.
REDWOOD CITY, CA 94065

the attorney of record for the requester in Control No. 90/012342, in accordance with 37 C.F.R.

1.903, on April 23, 2014.

/David L. McCombs /

David L. McCombs,
Registration No. 32,271

R_364638

Electronic Acknowledgement Receipt

EFS ID:	18837514
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	David L. McCombs/Theresa O'Connor
Filer Authorized By:	David L. McCombs
Attorney Docket Number:	R1341006-D
Receipt Date:	23-APR-2014
Filing Date:	08-JUN-2012
Time Stamp:	14:08:00
Application Type:	Reexam (Third Party)

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		3PR_Request_for_Oral_Hearing.pdf	64496 bc3ca8fa426246bbe6eb5270221aa2015e5cf2b9	yes	3

Multipart Description/PDF files in .zip description		
Document Description	Start	End
Oral Hearing Request - Third Party Requester	1	2
Reexam Certificate of Service	3	3

Warnings:	
Information:	
Total Files Size (in bytes):	64496

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.

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HERSHKOVITZ & ASSOCIATES, PLLC

PATENT AGENCY
2845 DUKE STREET, ALEXANDRIA, VA 22314
TEL. 703-370-4800 ~ FACSIMILE 703-370-4809
patent@hershkovitz.net ~ www.hershkovitz.net

Inventor: Koichiro Ikudome et al.   Art Unit: 3992

Reexamination Proceeding 90/012,342   Confirmation No.: 5786
(based on U.S. Patent No. 6,779,118)

Reexamination Filed: June 8, 2012   Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are A COVER LETTER FOR SUPPLEMENTAL PATENT OWNER'S
REBUTTAL BRIEF UNDER 37 CFR §41.71 AND MARKED-UP PAGES 4 AND 13, AND A
SUPPLEMENTAL PATENT OWNER'S REBUTTAL BRIEF UNDER 37 CFR §41.71 AND
CLAIMS APPENDIX WITH A CERTIFICATE OF SERVICE in the above-captioned Proceeding.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other:				$		$
		Total:		$	Total:	$

___ Fee Payment made through EFS.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
___ The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16
and 1.17, which are required for entry of the papers submitted herewith, and any fees which
may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be
required to complete issuance of this application to Deposit Account No. 50-2929.

Respectfully submitted,
Koichiro Ikudome et al.

Date: April 22, 2014   /Abe Hershkovitz/
                                                                Abraham Hershkovitz
                                                                Registration No. 45,294

R1341006D.A11; AH/pjj

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichiro Ikudome

Merged Reexam Proceeding No. 95/002,035 (Main)
and Reexam Proceeding No. 90/012,342
(Based on US 6,779,118 C1)

Filed: September 12, 2012 (Main) and June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Art Unit 3992

Conf. No. 1745
Conf. No. 5786

Examiner Jalatee Worjloh

COVER LETTER FOR
SUPPLEMENTAL PATENT OWNER'S REBUTTAL BRIEF UNDER 37 CFR §41.71

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

On April 7, 2014, Patent Owner timely filed a Rebuttal Brief under 37 CFR §41.71 responsive to the March 6, 2014 Examiner's Answer and Respondent's Brief filed on January 8, 2014 by third party requester ("Requester") in the above-identified merged *inter partes/ex parte* Reexamination Proceedings ("the present Proceedings") for underlying US Patent No. 6,779,118 ("the '118 Patent"). The fee for Patent Owner's Rebuttal Brief also was submitted on April 7, 2014 with the Brief through EFS-Web, and the Office was then and now authorized to charge any fee necessary to enter the April 7, 2014 Brief or this Supplemental Brief, or to preserve the pendency of these Proceedings, to Deposit Account No. 50-2929 for Docket No. RI1341006F.

Through solely clerical error during preparation of the April 7, 2014 Rebuttal Brief, a typographical mistake was introduced which might create confusion in the mind of the reader. Accordingly, Patent Owner respectfully submits this Supplemental Rebuttal Brief to repair this unintentional clerical error, i.e., as shown here in intalics, to correct the sentence in Section G.3. on page 13 at line 2, from "Stockwell likewise *does teach or disclose* modifying a rule set..." to "Stockwell likewise *does not teach or disclose* modifying a rule set...." The only other change

made from the April 7, 2014 Brief to the present Supplemental Brief is completely editorial, i.e., to add a space on page 4, line 7, to separate the words "in" and "view", and accordingly, Patent Owner respectfully submits that correction is proper for clarity in the record, and courteously requests entry and consideration of this Supplemental Patent Owner's Rebuttal Brief.

Marked-up versions of pages 4 and 13 are submitted herewith simply to highlight the only changes made in this Supplemental Rebuttal Brief. A complete and "clean" version of this Supplemental Rebuttal Brief is submitted for consideration by the Examiner and the Board.

Please direct any questions to the undersigned at the below-listed telephone number.

Respectfully submitted,
Linksmart Wireless Technology, LLC

_____/Abe Hershkovitz/_____
Abraham Hershkovitz
Reg. No. 45,294

Stephen Marcus
Reg. No. 64,075

Attachments: Marked-Up Pages 4 and 13
               Supplemental Rebuttal Brief

Date:_ April 22, 2014

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RI1341006F/R1341006D ; AH/pjj

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address." The Examiner agrees with Patent Owner that as to claims 24, 26, 40-43, and 83-90, instructions are received by the redirection server to modify the rule set. However, the Examiner now maintains the rejection on modified ground. Therefore, the rejections under this issue continue to include:

Claims 16-24, 26-27, 36-43 and 68-90 as being obvious over Radia in view of Wong '727, and further in view of Stockwell; and

Claims 16-24 and 68-90 as being obvious over Radia ~~inview~~ in view of Wong '727, and further in view of APA.

3. (Withdrawn) The Examiner has withdrawn the rejection of Claims 40-43 as being obvious over He, Zenchelsky, Fortinsky, and APA.

4. Whether Coss is prior art citable against the '118 Patent in view of the Declarations of the Inventors under 37 CFR §1.131.

5. If Coss is properly citable prior art against the '118 Patent, whether Coss in view of APA renders obvious "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

Claims 16-24, 26, 27, 36-43 and 68-90 as being obvious over Coss in view of APA.

(D) Defective Grounds of Rejection Due to Lack of *prima facie*
Obviousness

Initially, Patent Owner respectfully points out it has been held that, "...when the prior art teaches away from the claimed solution..., obviousness cannot be proven merely by showing that a known composition could have been modified by routine experimentation or solely on the expectation of success; **it must be shown** that those of ordinary skill in the art would have had some apparent reason to modify the known composition in a way that would result in the claimed composition." *Ex parte Whallen II*, 2008 Pat. App. LEXIS 25, 21–22; 89 U.S.P.Q.2D 1078 (Bd. Pat. App. & Inter. 2008) (emphasis added).

Not once has the Examiner shown where there is any motivation or any reason whatsoever given anywhere in Willens **(except by the improper hindsight knowledge of the exclusive teaching of the '118 Patent that is being improperly used in all rejections)** to modify Willens to achieve the novel claimed invention of the '118 Patent, particularly with

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3. Combining Radia And Stockwell

Radia does not teach or suggest modifying the rule set (used to process data packets from the user) by the router while the rule set is configured in the router. Stockwell likewise does <u>not</u> teach or disclose modifying a rule set (used to process data packets from the user) by the router while the rule set is configured in the router. Combining Radia and Stockwell does not make obvious a requirement of the claims absent from both references but required by the '118 Patent claim language, such as in claim 16, that recites *"a redirection server programmed with a user's rule set ... to control data passing between the user and a public network...wherein the redirection server is configured to allow automated modification of...the rule set...."*

For each of the above reasons, the rejections based on a combination of Radia and Stockwell must be withdrawn.

H. Coss

1. The Examiner's Finding of Insufficiency of the Evidence in the Inventors' Declarations is Erroneously Based on Authority Applicable <u>Only</u> to Interference Proceedings

Patent Owner has submitted two Declarations, including receipts showing the purchase of supplies and a Report dated August 14, 1997, to demonstrate *actual* reduction to practice before the effective date of the Coss reference. This evidence was submitted to establish invention (reduction to practice) of the '118 Patent prior to the effective date of the Coss reference, not to support a count in interference.

The Examiner has rejected the sufficiency of this factual evidence first on the grounds that the Declarations fail to prove "diligence." However, again the Examiner errs because in this case, evidence of diligence is not required since the evidence of *actual* reduction to practice was dated August 14, 1997, *before the effective date of the reference.* Under 37 CFR §1.131(b), where the evidence of reduction to practice occurs before the critical date, evidence of "diligence" is *irrelevant.* Accordingly, the Examiner's rejection based on the sufficiency of the evidence to show diligence is therefore without legal merit or foundation, and must be reversed.

The Examiner has also rejected the sufficiency of the evidence to establish a reduction to practice in the US. However, Exhibit B shows that all of the components purchased to implement the invention were purchased in the United States of America (See Exhibit A to the Inventor Declarations under 37 CFR §1.131). Furthermore, the location of employment for both Inventors was Pasadena, California (Yeung Declaration, paragraph 4; Ikudome Declaration, paragraphs 5-8; and Exhibit B). This evidence is sufficient to show both conception and reduction to practice in Pasadena, California within the United States. By contrast, the Examiner has neither cited evidence nor presented any evidence-based inference

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichiro Ikudome   Art Unit 3992

Merged Reexam Proceeding No. 95/002,035 (Main)   Conf. No. 1745
and Reexam Proceeding No. 90/012,342   Conf. No. 5786
(Based on US 6,779,118 C1)

                                                            Examiner Jalatee Worjloh

Filed: September 12, 2012 (Main) and June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

SUPPLEMENTAL PATENT OWNER'S REBUTTAL BRIEF UNDER 37 CFR §41.71

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

As Appellant, Patent Owner respectfully submits this Rebuttal Brief under 37 CFR §41.71 responsive to the Examiner's Answer mailed on March 6, 2014 in the above-identified merged *inter partes/ex parte* Reexamination Proceedings ("the present Proceedings") for underlying US Patent No. 6,779,118 ("the '118 Patent"), and to Respondent's Brief filed on January 8, 2014 by third party requester ("Requester").

The fee for Patent Owner's Rebuttal Brief is being submitted concurrently through EFS-Web. However, the Office is authorized to charge any fee in connection herewith or any fees necessary to preserve the pendency of these Proceedings, or credit any overpayment, to Deposit Account No. 50-2929, referencing Docket No. RI1341006F.

As required by 37 C.F.R. §1.943(c), Patent Owner's Rebuttal Brief is 15 pages or fewer, excluding the Claims Appendix that is presented herewith for the convenience of the Board.

(A) Requester's Respondent Brief

Due to page limitations in this Rebuttal Brief, Patent Owner will only address the first ones of the unsupported or inaccurate remarks in the Respondent Brief filed by Requester on January 8, 2014, since the Respondent Brief is substantially reiteration of the Examiner's remarks from the Right of Appeal Notice ("RAN") and attorney comments regarding those Examiner's remarks, neither of which impact the irrefutable and factual evidence of the validity and patentability of the claims of the '118 Patent.

Specifically, on page 1 (and with reference to footnote number 1 on page 2), Requester has made the completely erroneous statement that Patent Owner "concedes the invalidity of claims 2-7, 9-14, 28-35, and 44-67, which were rejected as obvious over US 5,848,233 to Radia in view of the Admitted Prior Art and further in view of US 6,154,775 to Coss." Patent Owner categorically rebuts this statement, and any and all other such inaccurate remarks. Patent Owner has not conceded and does not concede the validity or patentability of any claim proposed, pending, issued or cancelled in either the original patent, a previous Proceeding or the present Proceedings. The reality is that what is factually taught in the prior art, and the *lack* of teaching therein, is incontrovertible proof that the claimed invention defines over all art cited and applied, alone or in any reasonable combination.

Further, Requester asserts in footnote 2 on page 5 of the Respondent Brief that:

> Requester also proposed rejecting claims 26-27 and 36-43 as obvious over Radia in view of Wong'727 (*sic.*) and the Admitted Prior Art in the detailed analysis adopted by the Examiner. *See* RAN at 21; Request Ex. BB at 55-102. Their omission from the rejection appears to be a clerical oversight, not the result of a determination on the merits.

However, upon review of the listed rejections of the claims in the RAN on page 20, it is clear that only claims 7, 14, 16-24, 50-56, and 62-90 are identified as being rejected over Radia in view of Wong '727 and further in view of Admitted Prior Art ("APA"), and the same is true in the RAN on page 21, the page cited by Petitioner. Additionally, in the Examiner's Answer, a completely separate paper issued after the RAN, the same proposed rejection (obvious over Radia in view of Wong and further in view of APA) is made for only claims 7, 14, 16-24, 50-56 and 62-90. Nowhere in the RAN or the Examiner's Answer are claims 26, 27 and/or 36-43 of the '118 Patent rejected under that combination of art. Accordingly, it is presumed that such ground of rejection has been withdrawn for those claims.

Since it appears that the Respondent Brief is substantially merely the same previously-presented attorney opinions that has no weight over factual evidence, particularly with regard to the factual evidence of the reduction to practice of the invention disclosed only in the '118 Patent that was presented in the Inventors' Declarations, Patent Owner hereby rebuts all inaccurate or unsupported attorney comments in the Respondent Brief and will not deal further with the contents of the Respondent Brief.

(B) The Examiner's Answer

As the statements and position taken by the Examiner in the RAN appear to be substantially reflected in the Examiner's Answer, Patent Owner directs the specific rebuttal of the Examiner's Answer to the maintained rejections of the novel and unobvious claims in view of the lack of teaching in the prior art and hindsight use of the exclusive disclosure found only in the '118 Patent. Patent Owner also rebuts the lack of proper weight and consideration given to the substantive evidence of reduction to practice furnished by the Inventors' Declarations.

(C) Issues to be Reviewed

As the Examiner's Answer indicates on page 2, every ground of rejection made in the Office Action dated September 9, 2013, from which Appeal is being taken, is maintained. Accordingly, Patent Owner submits that the following issues are being reviewed in this Rebuttal Brief:

1. Whether Willens in combination with RFC2138, Stockwell or "Admitted Prior Art" (APA), alone or in combination, discloses or renders obvious the limitations of: "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 as being obvious over Willens in view of RFC2138 and Stockwell; and

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 as being obvious over Willens in view of RFC2138 and APA.

2. Whether Radia in view of Wong '727, Stockwell, Wong '178 or APA, alone or in any reasonable combination, discloses or renders obvious "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network

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address." The Examiner agrees with Patent Owner that as to claims 24, 26, 40-43, and 83-90, instructions are received by the redirection server to modify the rule set. However, the Examiner now maintains the rejection on modified ground. Therefore, the rejections under this issue continue to include:

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5. If Coss is properly citable prior art against the '118 Patent, whether Coss in view of APA renders obvious "the redirection server…configured to allow automated modification of…the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

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(D) Defective Grounds of Rejection Due to Lack of *prima facie* Obviousness

Initially, Patent Owner respectfully points out it has been held that, "…when the prior art teaches away from the claimed solution…, obviousness cannot be proven merely by showing that a known composition could have been modified by routine experimentation or solely on the expectation of success; **it must be shown** that those of ordinary skill in the art would have had **some apparent reason to modify** the known composition in a way that would result in the claimed composition." *Ex parte Whallen II*, 2008 Pat. App. LEXIS 25, 21–22; 89 U.S.P.Q.2D 1078 (Bd. Pat. App. & Inter. 2008) (emphasis added).

Not once has the Examiner shown where there is any motivation or any reason whatsoever given anywhere in Willens **(except by the improper hindsight knowledge of the exclusive teaching of the '118 Patent that is being improperly used in all rejections)** to modify Willens to achieve the novel claimed invention of the '118 Patent, particularly with

regard to the inventive steps of configuring the redirection server to allow automatic modification of the rule set during the user's session.

That is, no credible line of reasoning has been given as to why any person having ordinary skill in the art could find the invention claimed in the '118 Patent to be obvious in light of the teachings of the references because the factual contents of the references have not been correctly interpreted. Instead, individual components in the prior art have been alleged to read on the elements of the novel invention disclosed only in the '118 Patent. However, in doing so, it has been made even clearer that the components in the prior art are **not** the same and do **not** function the same way as in the claimed invention.

The explanation as to how the teachings, and the lack of teachings, in the prior art verifies that the rejections of the appealed claims of the '118 Patent are defective is discussed in detail hereinbelow.

(E) Willens

1. Willens *Requires* That the Filter (Rule Set) Be *Maintained* (_Not_ Modified) After Being Downloaded To the Communications Server 14 – a Teaching That Directly Contradicts the "Modification" Requirement of the '118 Patent Claims

In the Examiner's Answer, the Examiner's argument for rejection of the claims based on Willens is essentially the same as previously given, that is: (1) the Willens' permit list (also referred to as "sitelist") and a filter ("rule set") are the same; and (2) Willens discloses that the permit list can be updated on a daily or hourly basis; and therefore (3) Willens teaches modification of the rule set as claimed in the '118 Patent. The disclosure and requirements of Willens do not support this argument.

The Examiner's argument is erroneous because (a) Willens teaches that the filter alone is downloaded to the communications server (14) and integrated with the client software (44); (b) Willens teaches that the only sites ever stored in cache are *user requested sites*, not sites from the permit list; (c) the Willens' sitelist (permit list), against which a user requested site is compared, is stored and maintained _exclusively_ *in the remote network access server (18)* and *is _never_ downloaded to the communications server (14) and is _never_ stored in the cache (50)*; and (d) the comparison between the user requested site and the list of sites included in the sitelist is _always_ done in the remote network server (18) and _never_ in the communications server (14).

Accordingly, adding or removing a website from a site list (such as the "PTA List") in the network access server (18) does not change the filter downloaded and integrated with the user software in the communications server (14). See Willens 5:34-36. Therefore, the PTA List **_cannot_** be a "filter" (rule set), because any modification of the PTA List (sitelist) in the access server (18) does not change the rule set downloaded in the communications server (14). Furthermore, even assuming (*arguendo*) the Examiner's contention that the sitelist was a rule set, the only modification taught by Willens is done in the network access server (18). The '118 Patent claims **_require_** that modification be done to the rule set (whether or not including a sitelist) ***while it is resident in the redirection server*** and acting to process data packets from the user during a user session. As discussed above, the sitelist of Willens is **never** resident in the communications server, where the '118 Patent claims require that the modification be done to the rule set in the redirection server during a user session. Willens not only does not teach the rule set of the '118 Patent that must be downloaded into the redirection server for modification, Willens **teaches away from** the novel rule set claimed in the '118 Patent because the "rule set" (sitelist) that the Examiner contends is shown by Willens that is downloaded to the communications server is ***never modified while resident in the communications server***, as required by each of the '118 Patent claims on appeal.

As to the Willens "filter" in the communications server, the Examiner is still ignoring the explicit teaching of Willens that, once the filter (rule set) is downloaded and integrated with the user software, that filter "...*is* **_maintained_** *in the server 14 for the rest of the user 22's session.*" See Willens, Abstract and 5:25-26. According to www.merriam-webster.com/dictionary/, the plain meaning of "maintain" is "to cause [something] to exist or continue *without changing.*" Simply stated, once downloaded into the communications server 14, Willens' filter (rule set) *is* **_not modified_**. By contrast, the '118 Patent claims on appeal each *require* that the rule set resident in the redirection server be able to change, i.e., be "modified," ***during*** a user session.[1]

The only support cited by the Examiner that the PTA List (sitelist) is a rule set is Willens 5:5-27:

> When user 22 logs in through the communications server 14, the RADIUS client software 45 first determines **if** user 22 is authorized by checking his password through RADIUS server 16, utilizing user profiles 46. The user

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[1] A "user session" in the '118 Patent is the period during which the rule set resident in the redirection server is correlated with the temporarily assigned network address (TANA) to "control data passing between the user and the public network." This corresponds to "session" as used in Willens.

profiles 46 also identify a **filter "F(Timmy)"** in his user profile 46. After checking user 22's authorization, <u>the RADIUS server 16 supplies the **filter identification**</u> through the RADIUS client 45 software along with the verification acknowledgment for the user 22 for use by client software 44 for controlling access by the user 22 to Internet sites. The <u>client software 44 then checks to see if the **filter "F(Timmy)"**</u> is stored locally in cache 50. If it is, the <u>client software 44 uses it for controlling access.</u> If not, the client software 44 sends a lookup request to the <u>network access server 18, which stores the</u> *centralized permitted sitelist* and the filters to be used as masks for checking access classifications of requested sites, <u>to download the **filter "F(Timmy)"**, which is maintained in the server 14 memory for the rest of the user 22's session.</u> (emphasis added)

However, this section of Willens requires just the opposite. The Examiner's summary of this section contends that the user profile identifies a *filter* named "F(Timmy)"; the client software searches for that *filter* "F(Timmy)", first in local cache and next in the remote access server (18); and then downloads the *filter* "F(Timmy)" to the communications server (14). Patent Owner agrees with this summary as far as it goes. However, omitted from the Examiner's summary is the fact that the *filter* "F(Timmy)" is the *only* thing downloaded to the server 14. Further omitted is the unambiguous requirement of Willens that the filter be ***maintained*** *in the communications server "for the rest of the user 22's session."* Accordingly, the version of the filter "F(Timmy)" that is downloaded into the communications server 14 is not modified in the communications server 14.

If the sitelist (the "PTA list" being one example), was an actual rule set used to grant or deny access as contended by the Examiner, then the PTA list would necessarily have been downloaded to the server (14) associated with the user, since that is where the claims of the '118 Patent require that modification to the rule set be done. **Willens teaches the opposite**. Indeed, a key feature of Willens was to provide "for a central, server based permit list..." (Willens 4:40-43). In short, ***Willens teaches that the sitelists are exclusively maintained at the centralized network access server (18)*** so that they are available to multiple users 22, 32, 34, and 36 (Willens 5:27-31).

The Examiner seems also to infer that the sitelists are stored in cache. However, the only sites stored in cache are sites *requested by the user*. See Willens 5:27-31. This again confirms the teaching of Willens that the sitelists are ***exclusively stored on the central network access server (18)*** so as to be available to multiple users, and so again, **teaches away** from the rule set claimed in the '118 Patent.

The position of the Examiner is further undercut because Willens discloses that the site requested by a user and the sitelist are compared by the network access server 18, ***not*** the communications server where a version of the filter is downloaded.

> ...the *server 14 sends a filter lookup request to server 18.* This lookup [request] contains the *list name* "PTA list" and the site Timmy [the requestor] is trying to access

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(www.playboy.com). *The server 18 searches list 52* ["PTA List"] and sends back the result. Based on the result, the *server 14 either permits or denies access* and updates its local cache [with the requested site]. Willens 6:1-7. (emphasis added)

Therefore, it is the server 18 that does the comparison of the *requested* site from the communications server 14 with the set of websites stored under the name "PTA List" *in the server 18*. The "result" sent to the server 14 is ___not___ a sitelist or website, but simply information that the requested site is either present or not present in the server 18 sitelist. That "result" is used by server 14 to either allow or disallow access (the rule's function). **Willens does not teach or disclose the communication of any website or sitelist from the server 18 to the communications server 14.**

For each of the above reasons, the Willens' sitelists and filters (rule set) are distinct elements, and the PTA List cannot be a rule set as posited by the Examiner[2]. As such, the filter downloaded in the communications server is not modified as required by the '118 claims on appeal, and updating of the sitelist is done exclusively in the network server 18, not in the communications server 14 as required by the '118 Patent.

2. Modification of the Rule Set

The Examiner argues that Willens <u>does</u> teach that the redirection server is configured to allow modification of the rule set because the filters of Willens define rules and the "PTA List" is a "rule." For the reasons discussed above, the Examiner's position is completely contrary to the teaching and requirements of Willens, and the rejections on that ground should therefore be reversed.

The Examiner also conjectures regarding the disclosure of Willens 5:9 and 18-26 as follows: "In Willens, while a user is logged in, the client software can send a lookup request to the network access server to download filters." However, the actual quote in context is as follows:

> When user 22 logs in ... Willens 5:9
> . . .
> The client software 44 then checks to see if the *filter "F(Timmy)"* is stored locally in cache 50. If it is, the client software 44 uses it [the filter "F(Timmy)"] for controlling access. If not, **the client software 44 sends a lookup request to the <u>network access server 18</u>**, which stores the <u>centralized permitted site list</u> and the filters to be used as masks for checking access classifications of requested sites, **to download the *filter "F(Timmy)"***, which is maintained in the server 14 memory for the rest of the user 22's session. Willens 5:18-26
> . . .

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[2] The Examiner's citation of the '118 Patent specification as justification for defining the Willens sitelist as a filter is a classic example of improper hindsight reconstruction. This is particularly true *since Willens teaches just the opposite* – that the filter and sitelist are separate and distinct. Even if the '118 Patent taught that its rule set included the identity of one or more allowed or disallowed websites, that teaching cannot be used to conflate Willens filter and sitelist *where Willens explicitly teaches just the opposite*.

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The server [18] software also automatically maintains the permit list by downloading updated versions of the list over the internet and compiling the list for use by the client software 42. Willens 5:40-44 (emphasis added)

First, to insure accuracy, the words used by Willens are "when a user logs in", and not "while a user is logged in," the former describing the initial log in and the latter describing user actions during a user session.

Secondly, the Examiner summarizes this section from Willens as support for the proposition that the communications server (14) receives "updated versions of the list" and therefore the communications server (14) allows modification of the rule set. However, as discussed in detail above, nothing in Willens discloses or suggests that a sitelist is ever communicated from the network server (18) to the communications server (14). In fact, **Willens teaches just the opposite**. Specifically, Willens teaches that it is the network server (18) that compares the user requested site against the sitelist eliminating any need to communicate a sitelist to each individual communications server (14). Indeed, the only information returned is the "result" of the comparison done by the network server (18) – that a comparison was found or not found. Willens does the comparison at a central site rather than a number of separate communications server sites to avoid having to send large lists of websites to the individual communications servers to do the comparison. See Willens 4:40-45.

For the above reasons, the Willens' communications server (14) does not "allow modification of the rule set" in the communications server (14). The rejection of the claims based on Willens is therefore erroneous and must be withdrawn.

(F) Stockwell
Non-Obviousness Over Willens In View Of Stockwell

The Examiner continues to maintain this obviousness rejection on several grounds.

First, the Examiner still posits that Willens teaches modification of the rule set downloaded in the communications server. However, it is unmistakeable that, for the reasons discussed above, the version of the rule set (filter) downloaded into the communications server 14 is maintained for the duration of the user session, and is not modified during a user session by

the communications server 14 as required by the '118 Patent claims on appeal. The Examiner's obviousness rejection is again therefore incorrect and must therefore be withdrawn.

Secondly, the Examiner interposes for the first time a new ground of rejection based on Stockwell, namely that Stockwell teaches cache entries and their expiration, "thereby ensuring that automatic updates received by the Choice Net server 18 will propagate down to the communications server 14 in a timely fashion." However, as described above, Willens teaches that all comparisons of the sitelist against a user requested site are done *by the server 18*. Only prior *user requested sites* are stored in cache. The sitelists from the server (18) are never communicated to the communications server 14, and there is no teaching, no suggestion for modification, and indeed no need in Willens to "propagate" those sitelists from the server (18) to the communications server (14). The Examiner's rejection on this ground is also erroneous and must be withdrawn.

(G) Radia.

1. The Examiner's Position That the '118 Claims Do Not Limit Modification to the Redirection Server is Erroneous

Apparatus claims 16-23, 36-39 and 68-82 each include the limitations:

"redirection server programmed with a user's rule set" and *" wherein the* redirection server is configured to allow automatic modification *of a least a portion of the rule set as a function of* [a defined parameter]."

Apparatus claim 24 includes the additional limitation:

"wherein instructions to the redirection server to modify the rule set are received by ... the redirection server."

Method claims 26, 40-43 and 83-90 include the following language:

"the redirection server containing a user's rule set" and *"receiving instructions by the redirection server to modify at least a portion of the user's rule set...."*

Additionally, all of the above claims require that the rule set programmed in the redirection server include functionality to *"control data passing between the user and a public network."*

Patent Owner's position is that the above claim language requires that the modification of the rule set be done in the redirection server, and that it is only the redirection server that actually makes any modification to be done to the rule set, whether in response to extrinsic instructions or not, as discussed in Patent Owner's Appellant Brief filed in this Proceeding, which is incorporated herein by reference.

The Examiner takes a contrary position that the above language "does not limit the modification to the redirection server," arguing that the embodiment in the '118 Patent at 8:3-11 "permits an outsider server to make modification to the rule set," and reciting from *Yamamoto* that, during Reexamination,

claims are given their broadest possible interpretation consistent with the specification. The Examiner then argues that the ANCS server is an outsider server that makes modification to the rule set programed in the router.

Again, the Examiner's analysis is erroneous for several reasons.

First, as discussed more fully in Patent Owner's Appellant Brief, the Examiner's interpretation of the embodiment in the '118 Patent at 8:3-11 is erroneous. As unambiguously recited in the '118 Patent 8:3-4, a website sends an "authorization," but the *action* of "deleting" of the redirection from the rule set in response to that authorization is done *by the redirection server, not by the website sending the authorization.* Furthermore, if the authorization to delete was sufficient without involving the redirection server to actually do the deleting, then sending the authorization to the redirection server would be superfluous and unnecessary. Also, the '118 Patent claims unambiguously require that rule set be the one programmed (contained) in the redirection server. As such, changing the rule set without involving the redirection server is *impossible*. Radia does not disclose, and the Examiner does not explain, how the ANCS server or any other outside website could change the rule set programmed in the redirection server as required by the '118 Patent claims without necessarily involving the redirection server itself[3]. The Examiner's interpretation is therefore not supported by this or any other embodiment in the '118 Patent.

Second, the '118 Patent claims require that the rule set being modified be the rule set resident ("programmed" or "contained") in the redirection server, which is therefore an integral part of the redirection server. The ANCS of Radia creates a rule set and then downloads that rule set into a router. However, Radia does not teach or suggest any modification to a rule set already downloaded (configured) in the router while that rule set is being used to process data packets between the user and the internet.

Third, whether the *"redirection server is configured to allow automatic modification"* or *"instructions to the redirection server to modify the rule set are received by…the redirection server,"* the claims of the '118 Patent require that the redirection server control the modification process. This is consistent with the specification which states at '118 Patent 4:52-53, "the redirection server performs *all* the central tasks of the system" (emphasis added).

Finally, interpreting the claims broadly enough to enable the rule set to be modified directly by an external website, as imagined by the Examiner, would effectively read the "redirection server configured to allow" limitation out of the claims by permitting the rule set to be modified with or without control by the redirection server. While Patent Owner understands that claims should be given their broadest *reasonable* interpretation during Reexamination, an interpretation that effectively reads the "redirection

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[3] The sentence in the '118 Patent at 8:6-10 states that "modifications" other than redirection are possible in the prior example, but regardless of the type, this example is still based on the fact that it is the redirection server that does the "modifying."

server configured to allow," or any other functional limitation, out of the claims is **not** reasonable.   In *Randall May Int'l Inc. v Deg Music Prods., Inc.*, 378 Fed. App'x. 989, 994 (Fed. Cir. 2010), the Court held that it was legal error to interpret a claim in such a way that a limitation was read out of the claim "because all the limitations in a claim must be considered meaningful." The Supreme Court applied this construction principle in *Warner Jenkinson Co. v. Hilton Davis Chemical*, 520 U.S. 17 (1997), stating that "[i]t is important to ensure that the application of the doctrine [of equivalents], even as to an individual element, is not allowed such broad play as to effectively eliminate that element in its entirety." Id at 29.

The Examiner's interpretation is defective, since under the Examiner's interpretation, the limitation "the redirection server is configured to allow," for example in Claim 16, or the limitation "receiving instructions by the redirection server to modify...the user's rule set...," would be rendered meaningless surplusage since the claim would cover modification whether or not the redirection server was a participant.

For each of the above reasons, in addition to those presented in Patent Owner's Appellant Brief, the Examiner's expansive interpretation must be reversed.

2.   Radia Itself Precludes an Interpretation That the Router and ANCS Can Be Combined to Defined the Claimed Redirection Server

The Examiner also contends that, even if the claims required modification by the redirection server, Radia's ANCS (112) and router (106) can be combined and, as combined, teach the redirection server required by the '118 Patent claims. The '118 Patent claims all require that the rule set programmed in the redirection server include functionality to "*control data passing between the user and a public network.*" The ANCS does not receive data packets, does not process data packets and therefore cannot "control data passing between the user and the public network." In Radia, the router is disclosed and described as performing this function. Furthermore, while Radia expressly teaches that the router (redirection server) can be a combination of one or more components, each of those components ***must*** *"forward packets originating at the client system."* Radia at 7:2-5.   The ANCS does not "forward packets originating at the client system," and indeed, does not process packets at all.   The ANCS therefore does not meet the express requirement imposed by Radia itself for combining components to process data packets, as is required of the redirection server in the '118 Patent. For the above reasons, as well as for the reasons stated in Patent Owner's Appellant Brief, the ANCS and router cannot therefore be combined. Indeed, ***Radia expressly teaches just the opposite***. The Examiner's rejection on this ground must therefore be withdrawn.

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3. Combining Radia And Stockwell

Radia does not teach or suggest modifying the rule set (used to process data packets from the user) by the router while the rule set is configured in the router. Stockwell likewise does not teach or disclose modifying a rule set (used to process data packets from the user) by the router while the rule set is configured in the router. Combining Radia and Stockwell does not make obvious a requirement of the claims absent from both references but required by the '118 Patent claim language, such as in claim 16, that recites "*a redirection server programmed with a user's rule set ... to control data passing between the user and a public network...wherein the redirection server is configured to allow automated modification of...the rule set....*"

For each of the above reasons, the rejections based on a combination of Radia and Stockwell must be withdrawn.

H. Coss

1. The Examiner's Finding of Insufficiency of the Evidence in the Inventors' Declarations is Erroneously Based on Authority Applicable <u>Only</u> to Interference Proceedings

Patent Owner has submitted two Declarations, including receipts showing the purchase of supplies and a Report dated August 14, 1997, to demonstrate *actual* reduction to practice before the effective date of the Coss reference. This evidence was submitted to establish invention (reduction to practice) of the '118 Patent prior to the effective date of the Coss reference, not to support a count in interference.

The Examiner has rejected the sufficiency of this factual evidence first on the grounds that the Declarations fail to prove "diligence." However, again the Examiner errs because in this case, evidence of diligence is not required since the evidence of *actual* reduction to practice was dated August 14, 1997, *before the effective date of the reference.* Under 37 CFR §1.131(b), where the evidence of reduction to practice occurs before the critical date, evidence of "diligence" is *irrelevant.* Accordingly, the Examiner's rejection based on the sufficiency of the evidence to show diligence is therefore without legal merit or foundation, and must be reversed.

The Examiner has also rejected the sufficiency of the evidence to establish a reduction to practice in the US. However, Exhibit B shows that all of the components purchased to implement the invention were purchased in the United States of America (See Exhibit A to the Inventor Declarations under 37 CFR §1.131). Furthermore, the location of employment for both Inventors was Pasadena, California (Yeung Declaration, paragraph 4; Ikudome Declaration, paragraphs 5-8; and Exhibit B). This evidence is sufficient to show both conception and reduction to practice in Pasadena, California within the United States. By contrast, the Examiner has neither cited evidence nor presented any evidence-based inference

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that would suggest reductions to practice other than in the United States. Accordingly, the Examiner's rejection based on the sufficient of the evidence to show reduction to practice in the U.S. is without foundation and must therefore also be reversed.

Finally, the Examiner has rejected the sufficiency of the evidence to show actual reduction, stating that "to establish actual reduction to practice, a showing of the invention in a physical or tangible form that shows every element of the *count*" (emphasis added) is required, citing *Wetmore v. Quick*, 536 F.2d 937, 942 (CCPA 1976) and MPEP 2138.05. However, again, these citations apply only to determine priority of invention in *interference* proceedings and *are not applicable to swearing behind a reference to remove that reference as prior art pursuant to 37 CFR §1.131*. To swear behind a reference, a "declaration under 37 CFR 1.131 is required to show no more than what the reference shows. *In re Stryker*, 435 F.2d. 1340 (CCPA 1971)… If the [declaration] contains facts showing a completion of the invention commensurate with the extent of the invention as claimed is shown in the reference or activity, the …declaration is sufficient, whether or not it is a showing of the identical disclosure of the reference or the identical subject matter involved in the activity." MPEP §715.02. The Declaration is sufficient if it establishes possession of the basic invention. *In re Spiller*, 500 F.2d 1170 (CCPA 1974), MPEP 715.02.

Accordingly, the Examiner, in applying the interference standard, erred. The Declarations to swear behind a reference do not need to show "a physical or tangible form that shows every element of the count." Indeed, there is no "count" against which this standard can even be measured when the purpose of the Declaration is to remove a reference as prior art rather than show priority of invention.

Under the proper standard, the Inventor Declarations submitted by Patent Owner are sufficient to show that the Inventors possessed the invention as of August 14, 1997, before the September 12, 1997 effective filing date of Coss. Exhibit B appended to the Declarations shows that the Inventors, prior to the effective date of Coss, actually demonstrated dynamic rules. See, *e.g.*, Exhibit B, page 6, Step 4, where, during a user session, the redirection rule was removed, dynamically changing the rules. This was the feature for which Coss was cited ("Coss teaches dynamic rules which are included with the access rules as a need arises[4]"). Accordingly, the Inventor Declarations as submitted are sufficient to remove Coss as a reference, and all rejections based on Coss must therefore be reversed.

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[4] By this recitation, Patent Owner does not concede that Coss is invalidating prior art under §103, but merely that the Inventor Declarations and their Exhibits show dynamic rule changing, the reason the Examiner cites Coss.

2. Coss Combined With APA Does Not Teach or Suggest the Invention

Even if Coss were arguably proper prior art (which it is not), there is nothing in Coss to suggest the modification proposed by the Examiner, alone or in combination with the APA as more fully discussed in Patent Owner's Appellant Brief.

Conclusion

For the above reasons, Appellant (Patent Owner) respectfully requests reversal of all of the Examiner's rejections of the claims on appeal.

Appellant also respectfully requests reversal of the Examiner's improper handling of the Inventor Declarations Under 37 CFR §1.131, and withdrawal of Coss as prior art.

Appellant further respectfully requests remand to the Examiner for issuance of a Notice of Intent to Issue a Reexamination Certificate of all the claims on appeal.

Evidence of service of this Rebuttal Brief on third party requesters is attached hereto.

Please direct any questions to the undersigned at the below-listed telephone number.

Respectfully submitted,
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Attachments:
Claims Appendix (For the Convenience of the Board)
Certificate of Service

Date: April 22, 2014

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Claims Appendix

1. *(Cancelled in Reexamination Certificate) (Reproduced for the Convenience of the Board)*
A system comprising:

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

a dial-up network server that receives user IDs from users' computers;

a redirection server connected to the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection server;

wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server;

wherein the authentication accounting server accesses the database and communicates the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server; and

wherein data directed toward the public network from the one of the users' computers are processed by the redirection server according to the individualized rule set.

2. The system of claim 1, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

3. The system of claim 1, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

4. The system of claim 1, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

5. The system of claim 1, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

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6. The system of claim 1, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

7. The system of claim 1, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

8. *(Cancelled from Reexamination Certificate)(Reproduced for the Convenience of the Board)* In a system comprising a database with entries correlating each of a plurality of user IDs with an individualized rule set; a dial-up network server that receives user IDs from users' computers; a redirection server connected to the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection server, the method comprising the steps of:

communicating a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID from the dial-up network server to the authentication accounting server;

communicating the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server from the authentication accounting server;

and processing data directed toward the public network from the one of the users' computers according to the individualized rule set.

9. The method of claim 8, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

10. The method of claim 8, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

11. The method of claim 8, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

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12. The method of claim 8, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

13. The method of claim 8, further including the step of redirecting the data from the users' computers to multiple destinations a function of the individualized rule set.

14. The method of claim 8, further including the step of creating database entries for a plurality of the plurality of users' IDs, the plurality of users' ID further being correlated with a common individualized rule set.

15. *(Cancelled from Reexamination Certificate) (Reproduced for the Convenience of the Board)*
A system comprising:

     a redirection server programmed with a user's rule set correlated to a temporarily assigned network address; wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

     wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address; and

     wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses.

16.   A system comprising:

     a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

     wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

     wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

     wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

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wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time.

17.   A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the data transmitted to or from the user.

18. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the location or locations the user accesses.

19. A system comprising:

        a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

        wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

        wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

        wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

        wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of time.

20. A system comprising:

        a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

        wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

        wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

        wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

        wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the data transmitted to or from the user.

21. A system comprising:

        a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

        wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

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wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the location or locations the user accesses.

22. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location or locations the user accesses.

23. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to a computer network and wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server.

24. The system of claim 23 wherein instructions to the redirection server to modify the rule set are received by one or more of the user side of the redirection server and the network side of the redirection server.

25. *(Cancelled from Reexamination Certificate) (Reproduced for the Convenience of the Board)* In a system comprising a redirection server containing a user's rule set correlated to a temporarily assigned network address wherein the user's rule set contains at least one of a plurality of functions used to control data passing between the user and a public network; the method comprising the step of:

modifying at least a portion of the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server; and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network address and a network side connected to a computer network and

wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server and the method further includes the step of

receiving instructions by the redirection server to modify at least a portion of the user's rule set through one or more of the user side of the redirection server and the network side of the redirection server.

26. The method of claim 25, further including the step of modifying at least a portion of the user's rule set as a function of one or more of: time, data transmitted to or from the user, and location or locations the user accesses.

27. The method of claim 25, further including the step of removing or reinstating at least a portion of the user's rule set as a function of one or more of: time, the data transmitted to or from the user and a location or locations the user accesses.

28. The system of claim 1, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

29. The system of claim 1, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

30. The system of claim 1, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

31. The system of claim 1, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

32. The method of claim 8, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

33. The method of claim 8, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

34. The method of claim 8, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

35. The method of claim 8, wherein the individualized rule set includes at least one rule redirecting the data to a new 20 destination address based on a request type and an attempted destination address.

36. A system comprising:

      a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

      wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

      wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

37. A system comprising:

      a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

      wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

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wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

38. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

39. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

40. The method of claim 25, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

41. The method of claim 25, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

42. The method of claim 25, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

43. The method of claim 25, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

44. A system comprising:

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

a dial-up network server that receives user IDs from users' computers;

a redirection server connected between the dial-up network server and a public network, and

an authentication accounting server connected to the database, the dial-up network server and the redirection server;

wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server;

wherein the authentication accounting server accesses the database and communicates the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server; and

wherein data directed toward the public network from the one of the users' computers are processed by the redirection server according to the individualized rule set.

45. The system of claim 44, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

46. The system of claim 44, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

47. The system of claim 44, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

48. The system of claim 44, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

49. The system of claim 44, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

50. The system of claim 44, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

51. The system of claim 44, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

52. The system of claim 44, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

53. The system of claim 44, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

54. The system of claim 44, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

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55. The system of claim 44, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

56. In a system comprising a database with entries correlating each of a plurality of user IDs with an individualized rule set; a dial-up network server that receives user IDs from users' computers; a redirection server connected between the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection servers, a method comprising the steps of:

communicating a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID from the dial-up network server to the authentication accounting server;

communicating the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server from the authentication accounting server; and

processing data directed toward the public network from the one of the users' computers according to the individualized rule set.

57. The method of claim 56, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

58. The method of claim 56, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

59. The method of claim 56, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

60. The method of claim 56, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

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61. The method of claim 56, further including the step of redirecting the data from the users' computers to multiple destinations a function of the individualized rule set.

62. The method of claim 56, further including the step of creating database entries for a plurality of the plurality of users' IDs, the plurality of users' ID further being correlated with a common individualized rule set.

63. The method of claim 56, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

64. The method of claim 56, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

65. The method of claim 56, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

66. The method of claim 56, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

67. The method of claim 56, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

68. A system comprising:

a redirection server connected between a user computer and a public network, the redirection server programmed with a users' rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

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wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address; and

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses.

69. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time.

70. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the data transmitted to or from the user.

71. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the location or locations the user accesses.

72. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of time.

73. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the data transmitted to or from the user.

74. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the location or locations the user accesses.

75. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location or locations the user accesses.

76. The system of claim 68, wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to a computer network and wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server.

77. The system of claim 68 wherein instructions to the redirection server to modify the rule set are received by one or more of the user side of the redirection server and the network side of the redirection server.

78. The system of claim 68, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

79. The system of claim 68, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

80. The system of claim 68, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

81. The system of claim 68, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

82. The system of claim 68, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the modified rule set.

83. In a system comprising a redirection server connected between a user computer and a public network, the redirection server containing a user's rule set correlated to a temporarily assigned network address wherein the user's rule set contains at least one of a plurality of functions used to control data passing between the user and a public network; a method comprising the step of:

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modifying at least a portion of the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server; and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network address and a network side connected to a computer network; and

wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server and the method further includes the step of receiving instructions by the redirection server to modify at least a portion of the user's rule set through one or more of the user side of the redirection server and the network side of the redirection server.

84. The method of claim 83, further including the step of modifying at least a portion of the user's rule set as a function of one or more of time, data transmitted to or from the user, and location or locations the user accesses.

85. The method of claim 83, further including the step of removing or reinstating at least a portion of the user's rule set as a function of one or more of time, the data transmitted to or from the user and a location or locations the user accesses.

86. The method of claim 83, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

87. The method of claim 83, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

88. The method of claim 83, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

89. The method of claim 83, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

90. The method of claim 83, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

Certificate of Service

It is hereby certified that the attached Cover Letter for Supplemental Patent Owner's Rebuttal Brief and Marked-Up Pages 4 and 13, Supplemental Patent Owner's Rebuttal Brief Under 37 CFR §41.71 (including a Claims Appendix), and a copy of this Certificate of Service **are being served on April 22, 2014 by first class mail** on third party requesters at third party requesters' addresses of record:

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Electronic Acknowledgement Receipt

EFS ID:	18826474
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	22-APR-2014
Filing Date:	08-JUN-2012
Time Stamp:	21:29:09
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D-A11_Transmittal-of-Suppl-Rbttl-Brf.pdf	159268 ffa3fe82c7c21d5603acea6d169dc98716782af3	no	1

Warnings:	
Information:	

Panasonic-1012

2	Rebuttal Brief - Owner	RI1341006F-R1341006D_Cover-Letter-for-Suppl-Rebuttal-Brief.pdf	120111 <hr> 6890e370e54c4d6e1e89fd80e599871401c 6f6d0	no	2

Warnings:

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3	Rebuttal Brief - Owner	RI1341006F-R1341006D_Suppl-Rebuttal-Brief_MarkedUp-Page-4.pdf	128261 <hr> b2faa06b17631155ecb086bf842e273e3e9 dba4f	no	1

Warnings:

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4	Rebuttal Brief - Owner	RI1341006F-R1341006D_Suppl-Rebuttal-Brief_MarkedUp-Page-13.pdf	134799 <hr> 0eb14c133bfef8746d807543498b6024be0 78caf	no	1

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5		RI1341006F-R1341006D_Supplemental-Rebuttal-Brief.pdf	338580 <hr> d127515990cea7a5d1c0f2877e834dc06b9 a7197	yes	34

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Rebuttal Brief - Owner	1	33
Reexam Certificate of Service	34	34

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Total Files Size (in bytes):	881019

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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Inventor: Koichiro Ikudome et al.

Art Unit: 3992

Reexamination Proceeding 90/012,342
(based on U.S. Patent No. 6,779,118)

Confirmation No.: 5786

Reexamination Filed: June 8, 2012

Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Mail Stop *"inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are PATENT OWNER'S REBUTTAL BRIEF UNDER 37 CFR §41.71
WITH CLAIMS APPENDIX and a Certificate of Service in the above-captioned Proceeding.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other:				$		$
		Total:		$	Total:	$

__ Fee Payment made through EFS.
__ Payment is made herewith by Credit Card (see attached Form PTO-2038).
__ The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16 and 1.17, which are required for entry of the papers submitted herewith, and any fees which may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
__ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be required to complete issuance of this application to Deposit Account No. 50-2929.

Respectfully submitted,
Koichiro Ikudome et al.

Date: April 7, 2014

          /Abe Hershkovitz/
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Registration No. 45,294

R1341006D.A10; AH/pjj

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichiro Ikudome

Merged Reexam Proceeding No. 95/002,035 (Main)
and Reexam Proceeding No. 90/012,342
(Based on US 6,779,118 C1)

Filed: September 12, 2012 (Main) and June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Art Unit 3992

Conf. No. 1745
    Conf. No. 5786

Examiner Jalatee Worjloh

PATENT OWNER'S REBUTTAL BRIEF UNDER 37 CFR §41.71

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

As Appellant, Patent Owner respectfully submits this Rebuttal Brief under 37 CFR §41.71 responsive to the Examiner's Answer mailed on March 6, 2014 in the above-identified merged *inter partes/ex parte* Reexamination Proceedings ("the present Proceedings") for underlying US Patent No. 6,779,118 ("the '118 Patent"), and to Respondent's Brief filed on January 8, 2014 by third party requester ("Requester").

The fee for Patent Owner's Rebuttal Brief is being submitted concurrently through EFS-Web. However, the Office is authorized to charge any fee in connection herewith or any fees necessary to preserve the pendency of these Proceedings, or credit any overpayment, to Deposit Account No. 50-2929, referencing Docket No. RI1341006F.

As required by 37 C.F.R. §1.943(c), Patent Owner's Rebuttal Brief is 15 pages or fewer, excluding the Claims Appendix that is presented herewith for the convenience of the Board.

(A) Requester's Respondent Brief

Due to page limitations in this Rebuttal Brief, Patent Owner will only address the first ones of the unsupported or inaccurate remarks in the Respondent Brief filed by Requester on January 8, 2014, since the Respondent Brief is substantially reiteration of the Examiner's remarks from the Right of Appeal Notice ("RAN") and attorney comments regarding those Examiner's remarks, neither of which impact the irrefutable and factual evidence of the validity and patentability of the claims of the '118 Patent.

Specifically, on page 1 (and with reference to footnote number 1 on page 2), Requester has made the completely erroneous statement that Patent Owner "concedes the invalidity of claims 2-7, 9-14, 28-35, and 44-67, which were rejected as obvious over US 5,848,233 to Radia in view of the Admitted Prior Art and further in view of US 6,154,775 to Coss." Patent Owner categorically rebuts this statement, and any and all other such inaccurate remarks. Patent Owner has not conceded and does not concede the validity or patentability of any claim proposed, pending, issued or cancelled in either the original patent, a previous Proceeding or the present Proceedings. The reality is that what is factually taught in the prior art, and the *lack* of teaching therein, is incontrovertible proof that the claimed invention defines over all art cited and applied, alone or in any reasonable combination.

Further, Requester asserts in footnote 2 on page 5 of the Respondent Brief that:

> Requester also proposed rejecting claims 26-27 and 36-43 as obvious over Radia in view of Wong'727 (*sic.*) and the Admitted Prior Art in the detailed analysis adopted by the Examiner. *See* RAN at 21; Request Ex. BB at 55-102. Their omission from the rejection appears to be a clerical oversight, not the result of a determination on the merits.

However, upon review of the listed rejections of the claims in the RAN on page 20, it is clear that only claims 7, 14, 16-24, 50-56, and 62-90 are identified as being rejected over Radia in view of Wong '727 and further in view of Admitted Prior Art ("APA"), and the same is true in the RAN on page 21, the page cited by Petitioner. Additionally, in the Examiner's Answer, a completely separate paper issued after the RAN, the same proposed rejection (obvious over Radia in view of Wong and further in view of APA) is made for only claims 7, 14, 16-24, 50-56 and 62-90. Nowhere in the RAN or the Examiner's Answer are claims 26, 27 and/or 36-43 of the '118 Patent rejected under that combination of art. Accordingly, it is presumed that such ground of rejection has been withdrawn for those claims.

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Since it appears that the Respondent Brief is substantially merely the same previously-presented attorney opinions that has no weight over factual evidence, particularly with regard to the factual evidence of the reduction to practice of the invention disclosed only in the '118 Patent that was presented in the Inventors' Declarations, Patent Owner hereby rebuts all inaccurate or unsupported attorney comments in the Respondent Brief and will not deal further with the contents of the Respondent Brief.

(B) The Examiner's Answer

As the statements and position taken by the Examiner in the RAN appear to be substantially reflected in the Examiner's Answer, Patent Owner directs the specific rebuttal of the Examiner's Answer to the maintained rejections of the novel and unobvious claims in view of the lack of teaching in the prior art and hindsight use of the exclusive disclosure found only in the '118 Patent. Patent Owner also rebuts the lack of proper weight and consideration given to the substantive evidence of reduction to practice furnished by the Inventors' Declarations.

(C) Issues to be Reviewed

As the Examiner's Answer indicates on page 2, every ground of rejection made in the Office Action dated September 9, 2013, from which Appeal is being taken, is maintained. Accordingly, Patent Owner submits that the following issues are being reviewed in this Rebuttal Brief:

1. Whether Willens in combination with RFC2138, Stockwell or "Admitted Prior Art" (APA), alone or in combination, discloses or renders obvious the limitations of: "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 as being obvious over Willens in view of RFC2138 and Stockwell; and

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 as being obvious over Willens in view of RFC2138 and APA.

2. Whether Radia in view of Wong '727, Stockwell, Wong '178 or APA, alone or in any reasonable combination, discloses or renders obvious "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network

address." The Examiner agrees with Patent Owner that as to claims 24, 26, 40-43, and 83-90, instructions are received by the redirection server to modify the rule set. However, the Examiner now maintains the rejection on modified ground. Therefore, the rejections under this issue continue to include:

Claims 16-24, 26-27, 36-43 and 68-90 as being obvious over Radia in view of Wong '727, and further in view of Stockwell; and

Claims 16-24 and 68-90 as being obvious over Radia inview of Wong '727, and further in view of APA.

3. (Withdrawn) The Examiner has withdrawn the rejection of Claims 40-43 as being obvious over He, Zenchelsky, Fortinsky, and APA.

4. Whether Coss is prior art citable against the '118 Patent in view of the Declarations of the Inventors under 37 CFR §1.131.

5. If Coss is properly citable prior art against the '118 Patent, whether Coss in view of APA renders obvious "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

Claims 16-24, 26, 27, 36-43 and 68-90 as being obvious over Coss in view of APA.

(D) Defective Grounds of Rejection Due to Lack of *prima facie* Obviousness

Initially, Patent Owner respectfully points out it has been held that, "...when the prior art teaches away from the claimed solution..., obviousness cannot be proven merely by showing that a known composition could have been modified by routine experimentation or solely on the expectation of success; **it must be shown** that those of ordinary skill in the art would have had **some apparent reason to modify** the known composition in a way that would result in the claimed composition." *Ex parte Whallen II*, 2008 Pat. App. LEXIS 25, 21–22; 89 U.S.P.Q.2D 1078 (Bd. Pat. App. & Inter. 2008) (emphasis added).

Not once has the Examiner shown where there is any motivation or any reason whatsoever given anywhere in Willens **(except by the improper hindsight knowledge of the exclusive teaching of the '118 Patent that is being improperly used in all rejections)** to modify Willens to achieve the novel claimed invention of the '118 Patent, particularly with

regard to the inventive steps of configuring the redirection server to allow automatic modification of the rule set during the user's session.

That is, no credible line of reasoning has been given as to why any person having ordinary skill in the art could find the invention claimed in the '118 Patent to be obvious in light of the teachings of the references because the factual contents of the references have not been correctly interpreted. Instead, individual components in the prior art have been alleged to read on the elements of the novel invention disclosed only in the '118 Patent. However, in doing so, it has been made even clearer that the components in the prior art are **not** the same and do **not** function the same way as in the claimed invention.

The explanation as to how the teachings, and the lack of teachings, in the prior art verifies that the rejections of the appealed claims of the '118 Patent are defective is discussed in detail hereinbelow.

(E) Willens

1. Willens *Requires* That the Filter (Rule Set) Be *Maintained* (*Not* Modified) After Being Downloaded To the Communications Server 14 – a Teaching That Directly Contradicts the "Modification" Requirement of the '118 Patent Claims

In the Examiner's Answer, the Examiner's argument for rejection of the claims based on Willens is essentially the same as previously given, that is: (1) the Willens' permit list (also referred to as "sitelist") and a filter ("rule set") are the same; and (2) Willens discloses that the permit list can be updated on a daily or hourly basis; and therefore (3) Willens teaches modification of the rule set as claimed in the '118 Patent. The disclosure and requirements of Willens do not support this argument.

The Examiner's argument is erroneous because (a) Willens teaches that the filter alone is downloaded to the communications server (14) and integrated with the client software (44); (b) Willens teaches that the only sites ever stored in cache are *user requested sites*, not sites from the permit list; (c) the Willens' sitelist (permit list), against which a user requested site is compared, is stored and maintained *exclusively in the remote network access server (18)* and *is never downloaded to the communications server (14) and is never stored in the cache (50)*; and (d) the comparison between the user requested site and the list of sites included in the sitelist is *always* done in the remote network server (18) and *never* in the communications server (14).

Accordingly, adding or removing a website from a site list (such as the "PTA List") in the network access server (18) does not change the filter downloaded and integrated with the user software in the communications server (14). See Willens 5:34-36. Therefore, the PTA List **_cannot_** be a "filter" (rule set), because any modification of the PTA List (sitelist) in the access server (18) does not change the rule set downloaded in the communications server (14). Furthermore, even assuming (*arguendo*) the Examiner's contention that the sitelist was a rule set, the only modification taught by Willens is done in the network access server (18). The '118 Patent claims **_require_** that modification be done to the rule set (whether or not including a sitelist) **_while it is resident in the redirection server_** and acting to process data packets from the user during a user session. As discussed above, the sitelist of Willens is **_never_** resident in the communications server, where the '118 Patent claims require that the modification be done to the rule set in the redirection server during a user session. Willens not only does not teach the rule set of the '118 Patent that must be downloaded into the redirection server for modification, Willens **teaches away from** the novel rule set claimed in the '118 Patent because the "rule set" (sitelist) that the Examiner contends is shown by Willens that is downloaded to the communications server is **_never modified while resident in the communications server_**, as required by each of the '118 Patent claims on appeal.

As to the Willens "filter" in the communications server, the Examiner is still ignoring the explicit teaching of Willens that, once the filter (rule set) is downloaded and integrated with the user software, that filter "...*is* **_maintained_** *in the server 14 for the rest of the user 22's session.*" See Willens, Abstract and 5:25-26. According to www.merriam-webster.com/dictionary/, the plain meaning of "maintain" is "to cause [something] to exist or continue *without changing*." Simply stated, once downloaded into the communications server 14, Willens' filter (rule set) *is* **_not modified_**. By contrast, the '118 Patent claims on appeal each **_require_** that the rule set resident in the redirection server be able to change, i.e., be "modified," **_during_** a user session.[1]

The only support cited by the Examiner that the PTA List (sitelist) is a rule set is Willens 5:5-27:

> When user 22 logs in through the communications server 14, the RADIUS client software 45 first determines **if** user 22 is authorized by checking his password through RADIUS server 16, utilizing user profiles 46. <u>The user</u>

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[1] A "user session" in the '118 Patent is the period during which the rule set resident in the redirection server is correlated with the temporarily assigned network address (TANA) to "control data passing between the user and the public network." This corresponds to "session" as used in Willens.

> profiles 46 also identify a **filter "F(Timmy)"** in his user profile 46. After checking user 22's authorization, the RADIUS server 16 supplies the **filter identification** through the RADIUS client 45 software along with the verification acknowledgment for the user 22 for use by client software 44 for controlling access by the user 22 to Internet sites. The client software 44 then checks to see if the **filter "F(Timmy)"** is stored locally in cache 50. If it is, the client software 44 uses it for controlling access. If not, the client software 44 sends a lookup request to the network access server 18, which stores the *centralized permitted sitelist* and the filters to be used as masks for checking access classifications of requested sites, to download the **filter "F(Timmy)"**, which is maintained in the server 14 memory for the rest of the user 22's session. (emphasis added)

However, this section of Willens requires just the opposite. The Examiner's summary of this section contends that the user profile identifies a *filter* named "F(Timmy)"; the client software searches for that *filter* "F(Timmy)", first in local cache and next in the remote access server (18); and then downloads the *filter* "F(Timmy)" to the communications server (14). Patent Owner agrees with this summary as far as it goes. However, omitted from the Examiner's summary is the fact that the *filter* "F(Timmy)" is the *only* thing downloaded to the server 14. Further omitted is the unambiguous requirement of Willens that the filter be ***maintained*** in the communications server *"for the rest of the user 22's session."* Accordingly, the version of the filter "F(Timmy)" that is downloaded into the communications server 14 is not modified in the communications server 14.

If the sitelist (the "PTA list" being one example), was an actual rule set used to grant or deny access as contended by the Examiner, then the PTA list would necessarily have been downloaded to the server (14) associated with the user, since that is where the claims of the '118 Patent require that modification to the rule set be done. **Willens teaches the opposite**. Indeed, a key feature of Willens was to provide "for a central, server based permit list..." (Willens 4:40-43). In short, ***Willens teaches that the sitelists are exclusively maintained at the centralized network access server (18)*** so that they are available to multiple users 22, 32, 34, and 36 (Willens 5:27-31).

The Examiner seems also to infer that the sitelists are stored in cache. However, the only sites stored in cache are sites *requested by the user*. See Willens 5:27-31. This again confirms the teaching of Willens that the sitelists are ***exclusively stored on the central network access server (18)*** so as to be available to multiple users, and so again, **teaches away** from the rule set claimed in the '118 Patent.

The position of the Examiner is further undercut because Willens discloses that the site requested by a user and the sitelist are compared by the network access server 18, ***not*** the communications server where a version of the filter is downloaded.

> ...the *server 14 sends a filter lookup request to server 18*. This lookup [request] contains the *list name* "PTA list" and the site Timmy [the requestor] is trying to access

(www.playboy.com). *The server 18 searches list 52* ["PTA List"] and sends back the result. Based on the result, the *server 14 either permits or denies access* and updates its local cache [with the requested site]. Willens 6:1-7. (emphasis added)

Therefore, it is the server 18 that does the comparison of the *requested* site from the communications server 14 with the set of websites stored under the name "PTA List" *in the server 18*. The "result" sent to the server 14 is **_not_** a sitelist or website, but simply information that the requested site is either present or not present in the server 18 sitelist. That "result" is used by server 14 to either allow or disallow access (the rule's function). **Willens does not teach or disclose the communication of any website or sitelist from the server 18 to the communications server 14.**

For each of the above reasons, the Willens' sitelists and filters (rule set) are distinct elements, and the PTA List cannot be a rule set as posited by the Examiner[2]. As such, the filter downloaded in the communications server is not modified as required by the '118 claims on appeal, and updating of the sitelist is done exclusively in the network server 18, not in the communications server 14 as required by the '118 Patent.

2. Modification of the Rule Set

The Examiner argues that Willens <u>does</u> teach that the redirection server is configured to allow modification of the rule set because the filters of Willens define rules and the "PTA List" is a "rule." For the reasons discussed above, the Examiner's position is completely contrary to the teaching and requirements of Willens, and the rejections on that ground should therefore be reversed.

The Examiner also conjectures regarding the disclosure of Willens 5:9 and 18-26 as follows: "In Willens, while a user is logged in, the client software can send a lookup request to the network access server to download filters." However, the actual quote in context is as follows:

> When user 22 logs in ... Willens 5:9
> . . .
> The client software 44 then checks to see if the *filter "F(Timmy)"* is stored locally in cache 50. If it is, the client software 44 uses it [the filter "F(Timmy)"] for controlling access. If not, **the client software 44 sends a lookup request to the <u>network access server 18</u>, which stores the <u>centralized permitted site list</u>** and the filters to be used as masks for checking access classifications of requested sites, **to download the *filter "F(Timmy)"***, which is maintained in the server 14 memory for the rest of the user 22's session. Willens 5:18-26
> . . .

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[2] The Examiner's citation of the '118 Patent specification as justification for defining the Willens sitelist as a filter is a classic example of improper hindsight reconstruction. This is particularly true *since Willens teaches just the opposite* – that the filter and sitelist are separate and distinct. Even if the '118 Patent taught that its rule set included the identity of one or more allowed or disallowed websites, that teaching cannot be used to conflate Willens filter and sitelist *where Willens explicitly teaches just the opposite*.

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The server [18] software also automatically maintains the permit list by downloading updated versions of the list over the internet and compiling the list for use by the client software 42. Willens 5:40-44 (emphasis added)

First, to insure accuracy, the words used by Willens are "when a user logs in", and not "while a user is logged in," the former describing the initial log in and the latter describing user actions during a user session.

Secondly, the Examiner summarizes this section from Willens as support for the proposition that the communications server (14) receives "updated versions of the list" and therefore the communications server (14) allows modification of the rule set. However, as discussed in detail above, nothing in Willens

discloses or suggests that a sitelist is ever communicated from the network server (18) to the communications server (14). In fact, **Willens teaches just the opposite**. Specifically, Willens teaches that it is the network server (18) that compares the user requested site against the sitelist eliminating any need to communicate a sitelist to each individual communications server (14). Indeed, the only information returned is the "result" of the comparison done by the network server (18) – that a comparison was found or not found. Willens does the comparison at a central site rather than a number of separate communications server sites to avoid having to send large lists of websites to the individual communications servers to do the comparison. See Willens 4:40-45.

For the above reasons, the Willens' communications server (14) does not "allow modification of the rule set" in the communications server (14). The rejection of the claims based on Willens is therefore erroneous and must be withdrawn.

(F) Stockwell

Non-Obviousness Over Willens In View Of Stockwell

The Examiner continues to maintain this obviousness rejection on several grounds.

First, the Examiner still posits that Willens teaches modification of the rule set downloaded in the communications server. However, it is unmistakeable that, for the reasons discussed above, the version of the rule set (filter) downloaded into the communications server 14 is maintained for the duration of the user session, and is not modified during a user session by

the communications server 14 as required by the '118 Patent claims on appeal. The Examiner's obviousness rejection is again therefore incorrect and must therefore be withdrawn.

Secondly, the Examiner interposes for the first time a new ground of rejection based on Stockwell, namely that Stockwell teaches cache entries and their expiration, "thereby ensuring that automatic updates received by the Choice Net server 18 will propagate down to the communications server 14 in a timely fashion." However, as described above, Willens teaches that all comparisons of the sitelist against a user requested site are done *by the server 18*. Only prior *user requested sites* are stored in cache. The sitelists from the server (18) are never communicated to the communications server 14, and there is no teaching, no suggestion for modification, and indeed no need in Willens to "propagate" those sitelists from the server (18) to the communications server (14). The Examiner's rejection on this ground is also erroneous and must be withdrawn.

(G) Radia.

1. The Examiner's Position That the '118 Claims Do Not Limit Modification to the Redirection Server is Erroneous

Apparatus claims 16-23, 36-39 and 68-82 each include the limitations:

"redirection server programmed with a user's rule set" and *" wherein the* redirection server is configured to allow automatic modification *of a least a portion of the rule set as a function of* [a defined parameter]."

Apparatus claim 24 includes the additional limitation:

"wherein instructions to the redirection server to modify the rule set are received by ... the redirection server."

Method claims 26, 40-43 and 83-90 include the following language:

"the redirection server containing a user's rule set" and *"receiving instructions by the redirection server to modify at least a portion of the user's rule set...."*

Additionally, all of the above claims require that the rule set programmed in the redirection server include functionality to *"control data passing between the user and a public network."*

Patent Owner's position is that the above claim language requires that the modification of the rule set be done in the redirection server, and that it is only the redirection server that actually makes any modification to be done to the rule set, whether in response to extrinsic instructions or not, as discussed in Patent Owner's Appellant Brief filed in this Proceeding, which is incorporated herein by reference.

The Examiner takes a contrary position that the above language "does not limit the modification to the redirection server," arguing that the embodiment in the '118 Patent at 8:3-11 "permits an outsider server to make modification to the rule set," and reciting from *Yamamoto* that, during Reexamination,

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claims are given their broadest possible interpretation consistent with the specification. The Examiner then argues that the ANCS server is an outsider server that makes modification to the rule set programed in the router.

Again, the Examiner's analysis is erroneous for several reasons.

First, as discussed more fully in Patent Owner's Appellant Brief, the Examiner's interpretation of the embodiment in the '118 Patent at 8:3-11 is erroneous. As unambiguously recited in the '118 Patent 8:3-4, a website sends an "authorization," but the *action* of "deleting" of the redirection from the rule set in response to that authorization is done *by the redirection server, not by the website sending the authorization.* Furthermore, if the authorization to delete was sufficient without involving the redirection server to actually do the deleting, then sending the authorization to the redirection server would be superfluous and unnecessary. Also, the '118 Patent claims unambiguously require that rule set be the one programmed (contained) in the redirection server. As such, changing the rule set without involving the redirection server is *impossible*. Radia does not disclose, and the Examiner does not explain, how the ANCS server or any other outside website could change the rule set programmed in the redirection server as required by the '118 Patent claims without necessarily involving the redirection server itself[3]. The Examiner's interpretation is therefore not supported by this or any other embodiment in the '118 Patent.

Second, the '118 Patent claims require that the rule set being modified be the rule set resident ("programmed" or "contained") in the redirection server, which is therefore an integral part of the redirection server. The ANCS of Radia creates a rule set and then downloads that rule set into a router. However, Radia does not teach or suggest any modification to a rule set already downloaded (configured) in the router while that rule set is being used to process data packets between the user and the internet.

Third, whether the *"redirection server is configured to allow automatic modification"* or *"instructions to the redirection server to modify the rule set are received by…the redirection server,"* the claims of the '118 Patent require that the redirection server control the modification process. This is consistent with the specification which states at '118 Patent 4:52-53, "the redirection server performs *all* the central tasks of the system" (emphasis added).

Finally, interpreting the claims broadly enough to enable the rule set to be modified directly by an external website, as imagined by the Examiner, would effectively read the "redirection server configured to allow" limitation out of the claims by permitting the rule set to be modified with or without control by the redirection server. While Patent Owner understands that claims should be given their broadest *reasonable* interpretation during Reexamination, an interpretation that effectively reads the "redirection

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[3] The sentence in the '118 Patent at 8:6-10 states that "modifications" other than redirection are possible in the prior example, but regardless of the type, this example is still based on the fact that it is the redirection server that does the "modifying."

server configured to allow," or any other functional limitation, out of the claims is **not** reasonable.   In *Randall May Int'l Inc. v Deg Music Prods., Inc.*, 378 Fed. App'x. 989, 994 (Fed. Cir. 2010), the Court held that it was legal error to interpret a claim in such a way that a limitation was read out of the claim "because all the limitations in a claim must be considered meaningful." The Supreme Court applied this construction principle in *Warner Jenkinson Co. v. Hilton Davis Chemical*, 520 U.S. 17 (1997), stating that "[i]t is important to ensure that the application of the doctrine [of equivalents], even as to an individual element, is not allowed such broad play as to effectively eliminate that element in its entirety." Id at 29.

The Examiner's interpretation is defective, since under the Examiner's interpretation, the limitation "the redirection server is configured to allow," for example in Claim 16, or the limitation "receiving instructions by the redirection server to modify…the user's rule set…," would be rendered meaningless surplusage since the claim would cover modification whether or not the redirection server was a participant.

For each of the above reasons, in addition to those presented in Patent Owner's Appellant Brief, the Examiner's expansive interpretation must be reversed.

2.   Radia Itself Precludes an Interpretation That the Router and ANCS Can Be Combined to Defined the Claimed Redirection Server

The Examiner also contends that, even if the claims required modification by the redirection server, Radia's ANCS (112) and router (106) can be combined and, as combined, teach the redirection server required by the '118 Patent claims. The '118 Patent claims all require that the rule set programmed in the redirection server include functionality to "*control data passing between the user and a public network.*" The ANCS does not receive data packets, does not process data packets and therefore cannot "control data passing between the user and the public network." In Radia, the router is disclosed and described as performing this function. Furthermore, while Radia expressly teaches that the router (redirection server) can be a combination of one or more components, each of those components ___**must**___ "*forward packets originating at the client system.*" Radia at 7:2-5. The ANCS does not "forward packets originating at the client system," and indeed, does not process packets at all. The ANCS therefore does not meet the express requirement imposed by Radia itself for combining components to process data packets, as is required of the redirection server in the '118 Patent. For the above reasons, as well as for the reasons stated in Patent Owner's Appellant Brief, the ANCS and router cannot therefore be combined. Indeed, **Radia expressly teaches just the opposite**. The Examiner's rejection on this ground must therefore be withdrawn.

3. Combining Radia And Stockwell

Radia does not teach or suggest modifying the rule set (used to process data packets from the user) by the router while the rule set is configured in the router. Stockwell likewise does teach or disclose modifying a rule set (used to process data packets from the user) by the router while the rule set is configured in the router. Combining Radia and Stockwell does not make obvious a requirement of the claims absent from both references but required by the '118 Patent claim language, such as in claim 16, that recites *"a redirection server programmed with a user's rule set ... to control data passing between the user and a public network...wherein the redirection server is configured to allow automated modification of...the rule set...."*

For each of the above reasons, the rejections based on a combination of Radia and Stockwell must be withdrawn.

H. Coss

1. The Examiner's Finding of Insufficiency of the Evidence in the Inventors' Declarations is Erroneously Based on Authority Applicable <u>Only</u> to Interference Proceedings

Patent Owner has submitted two Declarations, including receipts showing the purchase of supplies and a Report dated August 14, 1997, to demonstrate **actual** reduction to practice before the effective date of the Coss reference. This evidence was submitted to establish invention (reduction to practice) of the '118 Patent prior to the effective date of the Coss reference, not to support a count in interference.

The Examiner has rejected the sufficiency of this factual evidence first on the grounds that the Declarations fail to prove "diligence." However, again the Examiner errs because in this case, evidence of diligence is not required since the evidence of **actual** reduction to practice was dated August 14, 1997, *before the effective date of the reference.* Under 37 CFR §1.131(b), where the evidence of reduction to practice occurs before the critical date, evidence of "diligence" is *irrelevant.* Accordingly, the Examiner's rejection based on the sufficiency of the evidence to show diligence is therefore without legal merit or foundation, and must be reversed.

The Examiner has also rejected the sufficiency of the evidence to establish a reduction to practice in the US. However, Exhibit B shows that all of the components purchased to implement the invention were purchased in the United States of America (See Exhibit A to the Inventor Declarations under 37 CFR §1.131). Furthermore, the location of employment for both Inventors was Pasadena, California (Yeung Declaration, paragraph 4; Ikudome Declaration, paragraphs 5-8; and Exhibit B). This evidence is sufficient to show both conception and reduction to practice in Pasadena, California within the United States. By contrast, the Examiner has neither cited evidence nor presented any evidence-based inference

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that would suggest reductions to practice other than in the United States. Accordingly, the Examiner's rejection based on the sufficient of the evidence to show reduction to practice in the U.S. is without foundation and must therefore also be reversed.

Finally, the Examiner has rejected the sufficiency of the evidence to show actual reduction, stating that "to establish actual reduction to practice, a showing of the invention in a physical or tangible form that shows every element of the *count*" (emphasis added) is required, citing *Wetmore v. Quick*, 536 F.2d 937, 942 (CCPA 1976) and MPEP 2138.05. However, again, these citations apply only to determine priority of invention in *interference* proceedings and *are not applicable to swearing behind a reference to remove that reference as prior art pursuant to 37 CFR §1.131*. To swear behind a reference, a "declaration under 37 CFR 1.131 is required to show no more than what the reference shows. *In re Stryker*, 435 F.2d. 1340 (CCPA 1971)... If the [declaration] contains facts showing a completion of the invention commensurate with the extent of the invention as claimed is shown in the reference or activity, the ...declaration is sufficient, whether or not it is a showing of the identical disclosure of the reference or the identical subject matter involved in the activity." MPEP §715.02. The Declaration is sufficient if it establishes possession of the basic invention. *In re Spiller*, 500 F.2d 1170 (CCPA 1974), MPEP 715.02.

Accordingly, the Examiner, in applying the interference standard, erred. The Declarations to swear behind a reference do not need to show "a physical or tangible form that shows every element of the count." Indeed, there is no "count" against which this standard can even be measured when the purpose of the Declaration is to remove a reference as prior art rather than show priority of invention.

Under the proper standard, the Inventor Declarations submitted by Patent Owner are sufficient to show that the Inventors possessed the invention as of August 14, 1997, before the September 12, 1997 effective filing date of Coss. Exhibit B appended to the Declarations shows that the Inventors, prior to the effective date of Coss, actually demonstrated dynamic rules. See, *e.g.*, Exhibit B, page 6, Step 4, where, during a user session, the redirection rule was removed, dynamically changing the rules. This was the feature for which Coss was cited ("Coss teaches dynamic rules which are included with the access rules as a need arises[4]"). Accordingly, the Inventor Declarations as submitted are sufficient to remove Coss as a reference, and all rejections based on Coss must therefore be reversed.

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[4] By this recitation, Patent Owner does not concede that Coss is invalidating prior art under §103, but merely that the Inventor Declarations and their Exhibits show dynamic rule changing, the reason the Examiner cites Coss.

2. Coss Combined With APA Does Not Teach or Suggest the Invention

Even if Coss were arguably proper prior art (which it is not), there is nothing in Coss to suggest the modification proposed by the Examiner, alone or in combination with the APA as more fully discussed in Patent Owner's Appellant Brief.

Conclusion

For the above reasons, Appellant (Patent Owner) respectfully requests reversal of all of the Examiner's rejections of the claims on appeal.

Appellant also respectfully requests reversal of the Examiner's improper handling of the Inventor Declarations Under 37 CFR §1.131, and withdrawal of Coss as prior art.

Appellant further respectfully requests remand to the Examiner for issuance of a Notice of Intent to Issue a Reexamination Certificate of all the claims on appeal.

Evidence of service of this Rebuttal Brief on third party requesters is attached hereto.

Please direct any questions to the undersigned at the below-listed telephone number.

Respectfully submitted,
Linksmart Wireless Technology, LLC

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Attachments:
Claims Appendix (For the Convenience of the Board)
Certificate of Service

Date:___April 7, 2014___

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Claims Appendix

1.   (Cancelled in Reexamination Certificate) (Reproduced for the Convenience of the Board)
A system comprising:

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

a dial-up network server that receives user IDs from users' computers;

a redirection server connected to the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection server;

wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server;

wherein the authentication accounting server accesses the database and communicates the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server; and

wherein data directed toward the public network from the one of the users' computers are processed by the redirection server according to the individualized rule set.

2. The system of claim 1, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

3. The system of claim 1, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

4. The system of claim 1, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

5. The system of claim 1, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

6. The system of claim 1, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

7. The system of claim 1, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

8. *(Cancelled from Reexamination Certificate)(Reproduced for the Convenience of the Board)* In a system comprising a database with entries correlating each of a plurality of user IDs with an individualized rule set; a dial-up network server that receives user IDs from users' computers; a redirection server connected to the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection server, the method comprising the steps of:

 communicating a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID from the dial-up network server to the authentication accounting server;

 communicating the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server from the authentication accounting server;

 and processing data directed toward the public network from the one of the users' computers according to the individualized rule set.

9. The method of claim 8, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

10. The method of claim 8, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

11. The method of claim 8, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

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12. The method of claim 8, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

13. The method of claim 8, further including the step of redirecting the data from the users' computers to multiple destinations a function of the individualized rule set.

14. The method of claim 8, further including the step of creating database entries for a plurality of the plurality of users' IDs, the plurality of users' ID further being correlated with a common individualized rule set.

15. *(Cancelled from Reexamination Certificate) (Reproduced for the Convenience of the Board)*
A system comprising:

    a redirection server programmed with a user's rule set correlated to a temporarily assigned network address; wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address; and

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses.

16.   A system comprising:

    a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

    wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time.

17.   A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the data transmitted to or from the user.

18. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the location or locations the user accesses.

19. A system comprising:

      a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

      wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

      wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of time.

20. A system comprising:

      a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

      wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

      wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

      wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the data transmitted to or from the user.

21. A system comprising:

      a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

      wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the location or locations the user accesses.

22. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location or locations the user accesses.

23. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

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wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to a computer network and wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server.

24. The system of claim 23 wherein instructions to the redirection server to modify the rule set are received by one or more of the user side of the redirection server and the network side of the redirection server.

25. *(Cancelled from Reexamination Certificate) (Reproduced for the Convenience of the Board)* In a system comprising a redirection server containing a user's rule set correlated to a temporarily assigned network address wherein the user's rule set contains at least one of a plurality of functions used to control data passing between the user and a public network; the method comprising the step of:

modifying at least a portion of the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server; and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network address and a network side connected to a computer network and

wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server and the method further includes the step of receiving instructions by the redirection server to modify at least a portion of the user's rule set through one or more of the user side of the redirection server and the network side of the redirection server.

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26. The method of claim 25, further including the step of modifying at least a portion of the user's rule set as a function of one or more of: time, data transmitted to or from the user, and location or locations the user accesses.

27. The method of claim 25, further including the step of removing or reinstating at least a portion of the user's rule set as a function of one or more of: time, the data transmitted to or from the user and a location or locations the user accesses.

28. The system of claim 1, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

29. The system of claim 1, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

30. The system of claim 1, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

31. The system of claim 1, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

32. The method of claim 8, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

33. The method of claim 8, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

34. The method of claim 8, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

35. The method of claim 8, wherein the individualized rule set includes at least one rule redirecting the data to a new 20 destination address based on a request type and an attempted destination address.

36. A system comprising:

    a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

    wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

    wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

37. A system comprising:

    a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

    wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

38. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

39. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

40. The method of claim 25, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

41. The method of claim 25, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

42. The method of claim 25, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

43. The method of claim 25, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

44. A system comprising:

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

a dial-up network server that receives user IDs from users' computers;

a redirection server connected between the dial-up network server and a public network, and

an authentication accounting server connected to the database, the dial-up network server and the redirection server;

wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server;

wherein the authentication accounting server accesses the database and communicates the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server; and

wherein data directed toward the public network from the one of the users' computers are processed by the redirection server according to the individualized rule set.

45. The system of claim 44, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

46. The system of claim 44, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

47. The system of claim 44, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

48. The system of claim 44, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

49. The system of claim 44, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

50. The system of claim 44, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

51. The system of claim 44, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

52. The system of claim 44, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

53. The system of claim 44, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

54. The system of claim 44, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

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55. The system of claim 44, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

56. In a system comprising a database with entries correlating each of a plurality of user IDs with an individualized rule set; a dial-up network server that receives user IDs from users' computers; a redirection server connected between the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection servers, a method comprising the steps of:

    communicating a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID from the dial-up network server to the authentication accounting server;

    communicating the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server from the authentication accounting server; and

    processing data directed toward the public network from the one of the users' computers according to the individualized rule set.

57. The method of claim 56, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

58. The method of claim 56, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

59. The method of claim 56, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

60. The method of claim 56, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

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61. The method of claim 56, further including the step of redirecting the data from the users' computers to multiple destinations a function of the individualized rule set.

62. The method of claim 56, further including the step of creating database entries for a plurality of the plurality of users' IDs, the plurality of users' ID further being correlated with a common individualized rule set.

63. The method of claim 56, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

64. The method of claim 56, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

65. The method of claim 56, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

66. The method of claim 56, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

67. The method of claim 56, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

68. A system comprising:

       a redirection server connected between a user computer and a public network, the redirection server programmed with a users' rule set correlated to a temporarily assigned network address;

       wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

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wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address; and

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses.

69. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time.

70. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the data transmitted to or from the user.

71. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the location or locations the user accesses.

72. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of time.

73. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the data transmitted to or from the user.

74. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the location or locations the user accesses.

75. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location or locations the user accesses.

76. The system of claim 68, wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to a computer network and wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server.

77. The system of claim 68 wherein instructions to the redirection server to modify the rule set are received by one or more of the user side of the redirection server and the network side of the redirection server.

78. The system of claim 68, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

79. The system of claim 68, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

80. The system of claim 68, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

81. The system of claim 68, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

82. The system of claim 68, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the modified rule set.

83. In a system comprising a redirection server connected between a user computer and a public network, the redirection server containing a user's rule set correlated to a temporarily assigned network address wherein the user's rule set contains at least one of a plurality of functions used to control data passing between the user and a public network; a method comprising the step of:

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modifying at least a portion of the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server; and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network address and a network side connected to a computer network; and

wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server and the method further includes the step of receiving instructions by the redirection server to modify at least a portion of the user's rule set through one or more of the user side of the redirection server and the network side of the redirection server.

84. The method of claim 83, further including the step of modifying at least a portion of the user's rule set as a function of one or more of time, data transmitted to or from the user, and location or locations the user accesses.

85. The method of claim 83, further including the step of removing or reinstating at least a portion of the user's rule set as a function of one or more of time, the data transmitted to or from the user and a location or locations the user accesses.

86. The method of claim 83, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

87. The method of claim 83, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

88. The method of claim 83, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

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89. The method of claim 83, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

90. The method of claim 83, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

Certificate of Service

     It is hereby certified that the attached Patent Owner's Rebuttal Brief (including a Claims Appendix) and a copy of this Certificate of Service **are being served on April 7, 2014 by first class mail** on third party requesters at third party requesters' addresses of record:

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Electronic Acknowledgement Receipt

EFS ID:	18696645
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	07-APR-2014
Filing Date:	08-JUN-2012
Time Stamp:	19:15:09
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D-A10_Transmittal-of-Rbttl-Brf.pdf	155890 ebe131f6c9215845de9e77811a16a8b35e7bbcd0	no	1

Warnings:	
Information:	

| 2 | | RI1341006F-R1341006D-A10_Rebuttal-Brief.pdf | 354518 | yes | 34 |
| | | | 3e06b98e5ebcd8e63ba276159e7c8fb1ab9a55a3 | | |

Multipart Description/PDF files in .zip description		
Document Description	Start	End
Rebuttal Brief - Owner	1	33
Reexam Certificate of Service	34	34

Warnings:

Information:

Total Files Size (in bytes):	510408

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.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

CS|00303S

40401   7590   02/19/2014
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EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
02/19/2014	PAPER

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.

PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS

James J. Wong

2108 Gossamer Avenue

Redwood CIty, CA 94065

Date:

MAILED

FEB 1 9 2014

CENTRAL REEXAMINATION UNIT

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. : 90012342 + 95002035

PATENT NO. : 6779118

ART UNIT : 3993

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

FEB 1 9 2014

CENTRAL REEXAMINATION UNIT

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(For the *Ex Parte* Requester)

In re Ikudome et al.	:
Inter Partes Reexamination Proceeding	:
Control No.: 95/002,035	:
Filed: July 12, 2012	:
Patent No. 6,779,118 C1	: DECISION ON PETITION
	: UNDER 37 CFR § 1.181
In re Ikudome et al.	:
Ex Parte Reexamination Proceeding	:
Control No.: 90/012,342	:
Filed: June 8, 2012	:
Patent No. 6,779,118 C1	:

This is a decision on the petition filed by the Third Party Requester (the "Requester") on October 4, 2013, entitled "PETITION UNDER 37 CFR § 1.181 TO STRIKE PATENT OWNER'S UNTIMELY DECLARATIONS FROM THE RECORD" and the opposition paper filed by Patent Owner on November 4, 2013, entitled "OPPOSITION TO PETITION TO STRIKE PATENT OWNER'S DECLARATIONS".

The petition and the opposition are before the Director of the Central Reexamination Unit.

The Requester's petition is <u>denied</u> for the reasons discussed below. The opposition paper is <u>granted</u> to the extent the petition is denied.

Review of Relevant Facts

- U.S. Patent No. 6,779,118 (the "'118 patent") issued on August 17, 2004.

- A corrected request for *inter partes* reexamination was filed September 12, 2012 and assigned control no. 95/002,035. Reexamination was requested of claims 2-7, 9-14, 16-24, and 26-90 of the '118 patent.

- In an order mailed October 19, 2012 (the "Order"), the *inter partes* request was granted. In the first Office action on the merits mailed concurrently, all claims under reexamination were rejected.

- On January 17, 2013, the Patent Owner timely filed a response to the first Office action.

- On February 15, 2013, the Requester filed comments.

- On March 20, 2013, a decision merging the 95/002,035 and 90/012,342 proceedings was mailed.

- On April 29, 2013, an Action Closing Prosecution ("ACP") was mailed in the merged proceeding.

- On June 28, 2013, the Patent Owner filed a response to the ACP, including a declaration by Moon Tai Yeung and a declaration by Koichiro Ikudome.

- On July 26, 2013 the Requester filed comments.

- On September 9, 2013, the Examiner issued a Right of Appeal Notice ("RAN").

- On October 4, 2013, the Requester timely filed the instant petition.

- On November 4, 2013, the Patent Owner filed the instant paper opposing the Requester's petition.

Relevant Regulations and Procedures

37 CFR §1.181 Petition to the Director.

(a) Petition may be taken to the Director:
    (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
    (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions in interferences, see § 1.644. (emphasis added).

37 CFR §1.116 Amendments and affidavits or other evidence after final action and prior to appeal

(e) An affidavit or other evidence submitted after a final rejection or other final action (§1.113) in an application or in an *ex parte* reexamination filed under §1.510, or an action closing prosecution (§1.949) in an inter partes reexamination filed under §1.913 but before or on the same date as of filing an appeal (§41.31 or §41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit and other evidence is necessary and was not earlier presented.

Decision

The Requester requests that the declarations by Moon Tai Yeung and Koichiro Ikudome, along with the evidence submitted as exhibits to those declarations, be stricken from the record and not considered on the merits because the Patent Owner has not complied with the required procedure for entry of such materials following an Action Closing Prosecution. According to the Requester, "[t]he Examiner's decision to allow them [the declarations and evidence] entry is contrary to the procedure required under 37 CFR 1.116(e) and should be corrected by striking the untimely Yeung and Ikudome declarations and evidence from the record". Petition, page 4. Thus, the main issue in this petition is whether the Examiner followed the Office's rules and procedures in deciding to consider the declarations filed after ACP.

The record indicates that, in response to the ACP, the Patent Owner argued that the declarations should be entered "because (1) they are necessary to eliminate Coss as 'prior art' and (2) they could not have been presented earlier since the inventors did not have a recollection of the evidence establishing an earlier reduction to practice than Coss until after the Examiner's mailing of the ACP". See Patent Owner's Response to ACP filed June 28, 2013, page 18.

In response, on page 18 of the Comments filed on July 26, 2013 ("Comments"), the Requester argued that the late-filed declarations should be denied entry because patent owner failed to demonstrate such "good and sufficient reasons" because the file history of *ex parte* proceeding 90/012,342 contains the following statement:

If necessary, Patent Owner is prepared to file Affidavits under 37 CFR §1.131 in support of prior conception and reduction to practice before the filing date of Coss.

The Requester asserted that "Since Patent Owner was '*prepared to file Affidavits*' after the first Office Action but chose not to, the declarations submitted following the Action Closing Prosecution *could have been* provided earlier". See Comments, page 18 (emphasis in original).

After considering the Patent Owner's response and the Requester's comments, the Examiner decided to consider the declarations submitted after ACP and concluded that the evidence presented is insufficient to overcome the rejections applied in the ACP. RAN, pages 17-19.

On this record, the Requester has failed show that the Examiner has not followed the Office rules and procedures by entering the declaration and evidence absent the "showing of good and sufficient reasons" that is required under 37 CFR 1.116(e). The Patent Owner's statements and the Requester's arguments regarding the declarations were before the Examiner when the decision to enter the declaration was made. Assigning weight to evidence, assessing credibility of statements made on the record, and evaluating merits of arguments is part of the examiner's duty. If the examiner determined, after considering all statements, evidence, and arguments, that the Patent Owner's statements amount to "showing of good and sufficient reasons", the examiner has not failed to follow the Office's rules and procedures. The fact that the Requester does not agree with the conclusion reached by the Examiner does not mean that the Examiner has failed to follow the Office's rules and procedures.

Patent Owner's statement that the Patent Owner is "prepared to file Affidavits" does not necessarily conflict with the later statement that "the inventors did not have a recollection of the evidence establishing an earlier reduction to practice than Coss until after the Examiner's mailing of the ACP" as the Requester suggests. The preparation for the filing of a declaration would include asking the inventors to start investigating the events that are the subject of the declaration by searching for documents etc., which is not inconsistent with one of the inventors statement in the declaration that he "began an investigation in May 2013 to see if we had any documents dated before that date that described the invention and could support an earlier conception and possibly reduction to practice date". Declaration of Koichiro Ikudome filed on June 28, 2013, paragraph 4. This statement indicates that the inventor was not sure whether he had documents necessary to support conception until the search was conducted.

In the absence of conflicting evidence, the Examiner must accept as true factual statements made by declarants. Thus, it is within the Examiner's discretion to conclude that the Patent Owner's statement is not inconsistent with statements in the submitted declarations. Accordingly, the Requester's petition to strike Patent Owner's declaration is denied. The Patent Owner's paper filed in opposition to the Requester's petition is granted to the extent the petition is denied.

CONCLUSION

1.   The October 4, 2013 third party requester's petition is <u>denied</u>.

2.   The Patent Owner's opposition paper filed November 4, 2013 is <u>granted</u> to the extent the petition is denied.

3.   Telephone inquiries related to this decision should be directed to Woo H. Choi, Supervisory Patent Reexamination Specialist, at (571) 272-4179 or Daniel Ryman, Supervisory Patent Reexamination Specialist, at (571) 272-.

Irem Yucel, Director
Central Reexamination Unit

Litigation Search Report CRU 3999

TO: Jalatee Worjloh Location: CRU Art Unit: 3992 Date: 01/16/14 Merged: 90/012,342	From: Patricia Volpe Location: CRU 3999 MDE 429B Phone: (571) 272-6825 Patricia.volpe@uspto.gov

Search Notes

Litigation search for U.S. Patent Number: **6,779,118**

CLOSED - Linksmart Wireless Technology Llc V. T-Mobile Usa Inc Et Al   8:12cv522

1) I performed a KeyCite Search in Westlaw, which retrieves all history on the patent including any litigation.

2) I performed a search on the patent in Lexis CourtLink for any open dockets or closed cases.

3) I performed a search in Lexis in the Federal Courts and Administrative Materials databases for any cases found.

4) I performed a search in Lexis in the IP Journal and Periodicals database for any articles on the patent.

5) I performed a search in Lexis in the news databases for any articles about the patent or any articles about litigation on this patent.

Westlaw

Date of Printing: Jan 16, 2014

KEYCITE

⊠ **US PAT 6779118 USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM, Assignee: Auriq Systems, Inc. (Aug 17, 2004)**

History

Direct History

=>   1 **USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM,** US PAT 6779118, 2004 WL 1841593 (U.S. PTO Utility Aug 17, 2004)
Construed by

⊠   2 Linksmart Wireless Technology, LLC v. T-Mobile USA, Inc., 2010 WL 2640402, 2010 Markman 2640402 (E.D.Tex. Jun 30, 2010) (NO. 2:08-CV-264-DF-CE) (Markman Order Version)

Related References

⊠   3 Linksmart Wireless Technology, LLC v. T-Mobile USA, Inc., 2010 WL 3816679 (E.D.Tex. Sep 02, 2010) (NO. 208CV264)
Report and Recommendation Adopted by

⊠   4 Linksmart Wireless Technology, LLC v. T-Mobile USA, Inc., 2010 WL 3816677 (E.D.Tex. Sep 27, 2010) (NO. 208CV264)

Court Documents

Trial Court Documents (U.S.A.)

E.D.Tex. Trial Pleadings

5 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. 1. T-MOBILE USA, INC.; 2. Wayport, Inc.; 3. AT&T, Inc.; 4. AT&T Mobility, LLC; 5. Lodgenet Interactive Corp.; 6. Ibahn General Holdings Corp.; 7. Ethostream, LLC; 8. Hot Point Wireless, Inc.; 9. Netnearu Corp.; 10. Pronto Networks, Inc.; 11. Aptilo N, 2008 WL 3538408 (Trial Pleading) (E.D.Tex. Jul. 1, 2008) **Complaint and Demand for Jury Trial** (NO. 08CV00264)

6 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2008 WL 4355636 (Trial Pleading) (E.D.Tex. Aug. 21, 2008) **Linksmart Wireless Technology, LLC'S Reply to Ethostream, LLC'S Counterclaim** (NO. 208CV00264)

7 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2008 WL 4355637 (Trial Pleading) (E.D.Tex. Aug. 29, 2008) **Answer and Counterclaim** (NO. 208CV00264)

8 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. (1) T-MOBILE USA, INC., (2)

Wayport, Inc., (3) AT&T, Inc., (4) AT&T Mobility, LLC, (5) Lodgenet Interactive Corp., (6) ibahn General Holdings Corp., (7) Ethostream, LLC, (8) Hot Point Wireless, Inc., (9) Netnearu Corp., (10) Pronto Networks, Inc. (11, 2008 WL 5369919 (Trial Pleading) (E.D.Tex. Sep. 12, 2008) **Defendant ibahn General Holdings Corp.'s Answer and Counterclaims to Linksmart Wireless Technology, LLC's Complaint** (NO. 208-CV-00264-TJW-CE)

9 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC.; Wayport, Inc.; At&t, Inc.; AT&T Mobility, LLC; Lodgenet Interactive Corporation; Ibahn General Holdings Corp.; Ethostream, LLC; Hot Point Wireless, Inc.; Netnearu Corp.; Pronto Networks, Inc.; Aptilo Networks, Inc.; Freefi Network, 2008 WL 5369920 (Trial Pleading) (E.D.Tex. Sep. 12, 2008) **Defendant Aptilo Networks, Inc.'s Answer, Affirmative Defenses and Counterclaims to Plaintiff's Complaint for Patent Infringement** (NO. 208-CV-264TJW-CE)

10 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. 1. T-MOBILE USA, INC.; 2. Wayport, Inc.; 3. AT&T, Inc.; Jury 4. AT&T Mobility, LLC; 5. Lodgenet Interactive Corp.; 6. Ibahn General Holdings Corp.; 7. Ethostream, LLC; 8. Hot Point Wireless, Inc.; 9. Netnearu Corp.; 10. Pronto Networks, Inc.; 11. Apt, 2008 WL 5369909 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **Defendant Marriott International, Inc.'s Answer and Counterclaims to Linksmart Wireless Technology, LLC's Complaint** (NO. 208-CV-00264-TJW-CE)

11 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2008 WL 5369910 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **Wayport, Inc.'s Answer, Defenses, and Counterclaims to Complaint** (NO. 208-CV-00264-TJW-CE)

12 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC. et al., Defendants., 2008 WL 5369911 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **Defendant Barnes & Noble Booksellers, Inc. Answer to Plaintiff's Complaint** (NO. 208-CV-00264-TJW-CE)

13 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2008 WL 5369912 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **Mcdonald's Corp.'s Answer, Defenses, and Counterclaims to Complaint** (NO. 208-CV-00264-TJW-CE)

14 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2008 WL 5369913 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **Meraki, Inc.'s Answer, Defenses, and Counterclaims to Complaint** (NO. 208-CV-00264-TJW-CE)

15 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2008 WL 5369914 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **Best Western International, Inc.'s Answer to Plaintiff's Complaint and Counterclaims** (NO. 208-CV-00264-TJW-CE)

16 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC.; et al., Defendants., 2008 WL 5369921 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **T-Mobile USA, Inc.'s Answer and Counterclaims** (NO. 208-CV-00264-TJW-CE)

17 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, Inc. et al., Defendants., 2008 WL 5369922 (Trial Pleading) (E.D.Tex. Sep. 15, 2008) **Defendant Mail Boxes Etc., Inc.'s Answer to Plaintiff's Complaint** (NO. 208-CV-00264-TJW)

18 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC.; Wayport, Inc.; AT&T, Inc.; AT&T Mobility, LLC; Lodgenet Interactive Corporation; Ibahn General Holdings Corp.; Ethostream, LLC; Hot Point Wireless, Inc.; Netnearu Corp.; Pronto

Networks, Inc.; Aptilo Networks, Inc.; Freefi Network, 2008 WL 5369915 (Trial Pleading) (E.D.Tex. Sep. 19, 2008) **Ramada Worldwide, Inc.'s Answer to Complaint and Counterclaims** (NO. 208-CV-00264-TJW-CE)

19 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2008 WL 5369916 (Trial Pleading) (E.D.Tex. Sep. 19, 2008) **Pronto Networks, Inc.'s Answer, Defenses, and Counterclaims to the Complaint** (NO. 208-CV-00264-TJW-CE)

20 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. 1. T-MOBILE USA, INC.; 2. Wayport, Inc.; 3. AT&T, Inc.; 4. AT&T Mobility, LLC; 5. Lodgenet Interactive Corp.; 6. Ibahn General Holdings Corp.; 7. Ethostream, LLC; 8. Hot Point Wireless, Inc.; 9. Netnearu Corp.; 10. Pronto Networks, Inc.; 11. Aptilo N, 2008 WL 5369917 (Trial Pleading) (E.D.Tex. Sep. 22, 2008) **Defendant Freefi Networks. Inc.'s Answer and Counterclaims to Original Complaint** (NO. 208CV00264TJW)

21 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. BEST WESTERN INTERNATIONAL, INC., Third-Party Plaintiff, v. BESTCOMM NETWORKS, INC. and Nomadix, Inc., Third-Party Defendants., 2009 WL 5819738 (Trial Pleading) (E.D.Tex. Nov. 13, 2009) **Third Party Complaint of Best Western International, Inc.** (NO. 208CV00264)

22 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et. al., Defendant., 2009 WL 5819739 (Trial Pleading) (E.D.Tex. Nov. 20, 2009) **Ramada Worldwide, Inc.'s Amended Answer to Complaint and Counterclaims** (NO. 208CV00264)

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24 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 3050903 (Trial Pleading) (E.D.Tex. May 7, 2010) **Best Western International, Inc.'s First Amended Answer, Defenses and Counterclaims** (NO. 208-CV-00264-TJW-CE)

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26 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. And Related Counterclaims., 2008 WL 8039590 (Expert Report and Affidavit) (E.D.Tex. 2008) **Declaration of Tal Lavian, Ph.D. in Support of Plaintiff Linksmart Wireless Technology, LLC's Response to Defendants' Motion for Partial Summary Judgment of Invalidity for Indefiniteness Under 35 U.S.** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

27 LINKSMART WIRELESS TECHNOLOGIES, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 3711476 (Expert Report and Affidavit) (E.D.Tex. Apr. 14, 2010) **Declaration of Kevin Jeffay, Ph.D.** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE,

208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

28 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., Wayport, Inc., At&t, Inc., At&t Mobility, LLC, Lodgenet Interactive Corporation, Ibahn General Holdings Corp., Ethostream, LLC, Hot Point Wireless Inc., Netnearu Corp., Pronto Networks, Ic., Aptilo Networks, Inc., Freefi Networks,, 2010 WL 3842257 (Expert Deposition) (E.D.Tex. Apr. 22, 2010) **(Deposition of Kevin Jeffay, Ph.D.)** (NO. 208-CV-00264-TJW-CE)

29 LINKSMART WIRELESS TECHNOLOGY LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendant., 2010 WL 3711477 (Expert Report and Affidavit) (E.D.Tex. Apr. 30, 2010) **Declaration Of Tal Lavian, Ph.D. in Support of Plaintiff Linksmart Wireless Technology, LLC'S Reply Claim Construction Brief** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

E.D.Tex. Trial Motions, Memoranda And Affidavits

30 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, Inc. et al., Defendants., 2008 WL 5369918 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Sep. 22, 2008) **Defendant At&T Mobility LLC's Motion to Dismiss** (NO. 208-CV-00264-TJW-CE)

31 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC.; et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. Cisco Systems, Inc.; Et Al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. SBC Internet Services, Inc. d/b/a AT&T Internet Services, Defendants;, 2009 WL 721149 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Jan. 23, 2009) **Joint Motion to Consolidate** (NO. 208-CV-002640TJW-CE, 208-CV-00304-DF-CE, 208-CV-00385-TJW, 209-CV-00026-TJW-CE)

32 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC.; et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. Cisco Systems, Inc.; et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. SBC Internet Services, Inc. d/b/a At&t Internet Services, Defendants;, 2009 WL 721433 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Jan. 23, 2009) **Joint Motion to Consolidate** (NO. 208-CV-00264-TJW-CE, 208-CV-00304-DF-CE, 208-CV-00385-TJW, 209-CV-00026-TJW-CE)

33 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2009 WL 714069 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Feb. 27, 2009) **Plaintiff Linksmart Wireless Technology, LLC's Motion for Default Judgment Against Hot Point Wireless, Inc. and Second Rule LLC** (NO. 208-CV-00264-DF-CE)

34 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al, Defendants. Best Western International, Inc., Third-Party Plaintiff, v. Bestcomm Networks, Inc. and Nomadix, Inc., Third-Party Defendants., 2010 WL 974673 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Feb. 25, 2010) **Third-Party Defendant Nomadix, Inc.'s Motion to Strike or Dismiss Third-Party Complaint of Best Western International, Inc.** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

35 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 2155255 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Mar. 19, 2010) **Plaintiff Linksmart Wireless Technology, LLC's Opening Claim Construction Brief** (NO. 208CV00264)

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Defendants. BEST WESTERN INTERNATIONAL, INC., Third-Party Plaintiff, v. BESTCOMM NETWORKS, INC. and Nomadix, Inc., Third-Party Defendants., 2010 WL 2155256 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Mar. 31, 2010) **Best Western International's Opposition to Nomadix's Motion to Strike or Dismiss Third Party Complaint** (NO. 208CV00264)

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38 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 2155258 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Apr. 16, 2010) **Claim Construction Brief of Defendants** (NO. 208CV00264)

39 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 2155259 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Apr. 19, 2010) **Best Western's Supplemental Claim Construction Brief** (NO. 208CV00264)

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41 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 2155261 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Apr. 30, 2010) **Plaintiff Linksmart Wireless Technology, LLC's Reply Claim Construction Brief** (NO. 208CV00264)

42 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. And Related Counterclaims., 2010 WL 3050762 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. May 7, 2010) **iBAHN's Claim Construction Surreply Brief** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

43 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. And Related Counterclaims., 2010 WL 3050763 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. May 11, 2010) **Claim Construction Sur-Reply Brief of Defendants** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

44 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 3050764 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. May 17, 2010) **Defendants' Motion for Partial Summary Judgment of Invalidity for Indefiniteness under 35 U.S.C. l 112, i2** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

45 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. And Related Counterclaims., 2010 WL 3050765 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. May 17, 2010) **Plaintiff Linksmart Wireless Technology, LLC's Response to Defendants' Motion to Exclude the Expert Declaration of Dr. Tal LA Vian Addressing the Declaration of Dr. Kevin Jeffay** (NO. 208-CV-00264-DF-CE,

208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

46 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al, Defendants. And Related Counterclaims., 2010 WL 3050766 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. May 23, 2010) **Plaintiff Linksmart Wireless Technology, LLC's Response to Defendants' Motion for Partial Summary Judgment of Invalidity for Indefiniteness under 35 U.S.C. | 112, ï 2** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

47 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al, Defendants., 2010 WL 3050767 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Jun. 2, 2010) **Defendants' Reply in Support of Their Motion for Partial Summary Judgment of Invalidity for Indefiniteness under 35 U.S.C. | 112, ï2** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

48 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. And Related Counterclaims., 2010 WL 4927709 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Sep. 15, 2010) **Defendants' Motion for a Stay Pending the Reexamination of the Patent in Suit** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

49 LINKSMART WIRELESS TECHNOLOGY, LLC, Linksmart, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 4927710 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Oct. 7, 2010) **Defendant Choice Hotels International, Inc.'s Reply in Support of Its Motion for Summary Judgment of Non-Infringement** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

E.D.Tex. Exhibits

50 LINKSMART WIRELESS TECHNOLOGY, LLC, v. T-MOBILE USA, INC. et al., 2010 WL 4024689 (Exhibit) (E.D.Tex. Mar. 31, 2010) **Direct Sales Agreement** (NO. 208CV00264)

51 LINKSMART WIRELESS TECHNOLOGY, LLC, v. T-MOBILE USA, INC. et al., 2010 WL 4024690 (Exhibit) (E.D.Tex. Mar. 31, 2010) **Nomadix, Inc. Reseller Agreement** (NO. 208CV00264)

E.D.Tex. Expert Resumes

52 Kevin Jeffay, curriculum vitae filed in Linksmart Wireless Technology, LLC V. T-Mobile USA, Inc. et al, 2010 WL 5779215 (Court-filed Expert Resume) (E.D.Tex. Jan. 18, 2010) **Expert Resume of Kevin Jeffay** (NO. 208CV00264)

53 Tal Lavian, Ph.D., curriculum vitae filed in Linksmart Wireless Technology, LLC v. T-Mobile USA, Inc., et al, 2010 WL 3515006 (Court-filed Expert Resume) (E.D.Tex. May 23, 2010) **Expert Resume of Tal Lavian** (NO. 208CV00264)

E.D.Tex. Trial Filings

54 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. Cisco Systems, Inc., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. SBC Internet Services, Inc. D/

B/A AT&T Internet Services, Defendants;, 2009 WL 3147057 (Trial Filing) (E.D.Tex. Jun. 1, 2009) **Joint Case Management Report** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

55 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. Cisco Systems, Inc., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. SBC Internet Services, Inc. D/ B/A AT&T Internet Services, Defendants;, 2009 WL 3147069 (Trial Filing) (E.D.Tex. Jun. 1, 2009) **Joint Case Management Report** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

56 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. Cisco Systems, Inc., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. SBC Internet Services, Inc. D/ B/A AT&T Internet Services, Defendants;, 2009 WL 3147139 (Trial Filing) (E.D.Tex. Jun. 1, 2009) **Joint Case Management Report** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

57 LINKSMART WIRELESS TECHNOLOGY, LLC, v. T-MOBILE USA, INC. et al., 2010 WL 1733529 (Trial Filing) (E.D.Tex. Feb. 19, 2010) **Claim Construction Chart** (NO. 208CV00264)

58 LINKSMART WIRELESS TECHNOLOGY, LLC, v. T-MOBILE USA, INC., et al., 2010 WL 3053062 (Trial Filing) (E.D.Tex. May 14, 2010) **Agreed Constructions** (NO. 08CV00264)

E.D.Tex. Verdicts, Agreements and Settlements

59 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC.; Wayport, Inc.; AT&T, Inc.; AT&T Mobility, LLC; Lodgenet Interactive Corp.; Ibahn General Holdings Corp.; Ethostream, LLC; Hot Point Wireless, Inc.; Netnearu Corp.; Pronto Networks, Inc.; Freefi Networks, Inc.; MerakI, Inc. Second, 2008 WL 5533263 (Verdict, Agreement and Settlement) (E.D.Tex. Dec. 9, 2008) **Jury** (NO. 208CV00264)

60 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. Cisco Systems, Inc., et al., Defendants; Linksmart Wireless Technology, LLC, Plaintiff, v. SBC Internet Services, Inc. d/b/a AT&T Internet Services, Defendants;, 2009 WL 3147112 (Verdict, Agreement and Settlement) (E.D.Tex. Jun. 1, 2009) **Joint Case Management Report** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

61 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. And Related Counterclaims., 2012 WL 2091453 (Verdict, Agreement and Settlement) (E.D.Tex. Apr. 4, 2012) **Joint Motion to Dismiss All Remaining Defendants** (NO. 208CV00264JRGRSP, 2:08-CV-00304-DF-CE, 2:08-CV-00385-DF-CE, 2:09-CV-00026-DF-CE)

62 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants. Best Western International, Inc., Third-Party Plaintiff, v. Bestcomm Networks, Inc. and Nomadix, Inc., Third-Party Defendants. Bestcomm Networks, Inc., Third-Party Defendant, v. Nomadix, Inc., Third-Party Defen, 2012 WL 2091454 (Verdict, Agreement and Settlement) (E.D.Tex. Apr. 4, 2012) **Stipulated Dismissal of Third-Party Complaint and Cross Claim Without Prejudice** (NO. 2:08-CV-00264-DF-CE, 2:08-CV-00304-DF-CE,

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Expert Court Documents (U.S.A.)

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65 LINKSMART WIRELESS TECHNOLOGIES, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 3711476 (Expert Report and Affidavit) (E.D.Tex. Apr. 14, 2010) **Declaration of Kevin Jeffay, Ph.D.** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

66 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., Wayport, Inc., At&t, Inc., At&t Mobility, LLC, Lodgenet Interactive Corporation, Ibahn General Holdings Corp., Ethostream, LLC, Hot Point Wireless Inc., Netnearu Corp., Pronto Networks, Ic., Aptilo Networks, Inc., Freefi Networks,, 2010 WL 3842257 (Expert Deposition) (E.D.Tex. Apr. 22, 2010) **(Deposition of Kevin Jeffay, Ph.D.)** (NO. 208-CV-00264-TJW-CE)

67 LINKSMART WIRELESS TECHNOLOGY LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendant., 2010 WL 3711477 (Expert Report and Affidavit) (E.D.Tex. Apr. 30, 2010) **Declaration Of Tal Lavian, Ph.D. in Support of Plaintiff Linksmart Wireless Technology, LLC'S Reply Claim Construction Brief** (NO. 208-CV-00264-DF-CE, 208-CV-00304-DF-CE, 208-CV-00385-DF-CE, 209-CV-00026-DF-CE)

E.D.Tex. Trial Motions, Memoranda And Affidavits

68 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 2155260 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Apr. 29, 2010) **Defendants' Motion to Exclude the Expert Declaration of Dr. Tal Lavian in Support of Plaintiff's Claim Construction Reply Brief** (NO. 208CV00264)

69 LINKSMART WIRELESS TECHNOLOGY, LLC, Plaintiff, v. T-MOBILE USA, INC., et al., Defendants., 2010 WL 2155261 (Trial Motion, Memorandum and Affidavit) (E.D.Tex. Apr. 30, 2010) **Plaintiff Linksmart Wireless Technology, LLC's Reply Claim Construction Brief** (NO. 208CV00264)

E.D.Tex. Expert Resumes

70 Kevin Jeffay, curriculum vitae filed in Linksmart Wireless Technology, LLC V. T-Mobile USA, Inc. et al, 2010 WL 5779215 (Court-filed Expert Resume) (E.D.Tex. Jan. 18, 2010) **Expert Resume of Kevin Jeffay** (NO. 208CV00264)

71 Tal Lavian, Ph.D., curriculum vitae filed in Linksmart Wireless Technology, LLC v. T-Mobile USA, Inc., et al, 2010 WL 3515006 (Court-filed Expert Resume) (E.D.Tex. May 23, 2010) **Expert Resume of Tal Lavian** (NO. 208CV00264)

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72 LINKSMART WIRELESS TECHNOLOGY, LLC v. T-MOBILE USA, INC. ET AL, NO. 2:08cv00264 (Docket) (E.D.Tex. Jul. 1, 2008)

Patent Family

73 AUTOMATIC DATA REDIRECTION SYSTEM FOR INTERNET COMMUNICATION, Derwent World Patents Legal 2000-072306+

Assignments

74 Action: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS). Number of Pages: 012, (DATE RECORDED: Jul 02, 2008)

75 ACTION: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS). NUMBER OF PAGES: 003, (DATE RECORDED: Jun 29, 1999)

Patent Status Files

.. Patent Suit(See LitAlert Entries),

.. Patent Suit(See LitAlert Entries),

.. Request for Re-Examination, (OG DATE: Aug 28, 2012)

.. Request for Re-Examination, (OG DATE: Aug 14, 2012)

.. Request for Re-Examination, (OG DATE: Jul 24, 2012)

.. Request for Re-Examination, (OG DATE: Apr 10, 2012)

.. Re-Examination Certificate, (OG DATE: Mar 27, 2012)

.. Patent Suit(See LitAlert Entries),

.. Patent Suit(See LitAlert Entries),

.. Patent Suit(See LitAlert Entries),

.. Patent Suit(See LitAlert Entries),

.. Request for Re-Examination, (OG DATE: Dec 02, 2008)

.. Patent Suit(See LitAlert Entries),

Docket Summaries

89 LINKSMART WIRELESS TECHNOLOGY LLC v. T-MOBILE USA INC ET AL, (C.D.CAL.

Apr 05, 2012) (NO. 8:12CV00522), (28 USC 1331)

90 LINKSMART WIRELESS TECHNOLOGY LLC v. TJ HOSPITALITY LTD ET AL, (E.D.TEX. Jul 29, 2010) (NO. 2:10CV00277), (15 USC 1126 PATENT INFRINGEMENT)

91 LINKSMART WIRELESS TECHNOLOGY LLC v. SIX CONTINENTS HOTELS INC ET AL, (E.D.TEX. Jan 21, 2009) (NO. 2:09CV00026), (28 USC 1338 PATENT INFRINGEMENT)

92 LINKSMART WIRELESS TECHNOLOGY, LLC v. SBC INTERNET SERVICES, INC., (E.D.TEX. Oct 09, 2008) (NO. 2:08CV00385), (15 USC 1126 PATENT INFRINGEMENT)

93 LINKSMART WIRELESS TECHNOLOGY, LLC v. CISCO SYSTEMS, INC. ET AL, (E.D.TEX. Aug 04, 2008) (NO. 2:08CV00304), (35 USC 271 PATENT INFRINGEMENT)

94 LINKSMART WIRELESS TECHNOLOGY, LLC v. T-MOBILE USA, INC. ET AL, (E.D.TEX. Jul 01, 2008) (NO. 2:08CV00264), (15 USC 1126 PATENT INFRINGEMENT)

Litigation Alert

95 Derwent LitAlert P2013-38-86 (Apr 05, 2012) Action Taken: ORDER BY JUDGE ANDREW J GUILFORD, GRANTING STIPULATION TO STAY CASE PENDING PREPARATION OF SETTLEMENT AGREEMENT 161 MADE JS-6 CASE TERMINATED

96 Derwent LitAlert P2012-16-134 (Apr 05, 2012) Action Taken: CAUSE - 28 USC 1331 - COMPLAINT FOR PATENT INFRINGEMENT

97 Derwent LitAlert P2010-36-12 (Jul 29, 2010) Action Taken: 15 USC 1126 - COMPLAINT FOR PATENT INFRINGEMENT

98 Derwent LitAlert P2009-07-58 (Jan 21, 2009) Action Taken: Complaint

99 Derwent LitAlert P2009-06-09 (Aug 04, 2008) Action Taken: Complaint

100 Derwent LitAlert P2008-47-12 (Jul 01, 2008) Action Taken: Complaint

Prior Art (Coverage Begins 1976)

101 METHOD OF PROVIDING TEMPORARY ACCESS OF A CALLING UNIT TO AN ANONYMOUS UNIT, US PAT 6157829Assignee: Motorola, Inc., (U.S. PTO Utility 2000)

102 SECURITY SYSTEM FOR INTERNET PROVIDER TRANSACTION, US PAT 5845070Assignee: Auric Web Systems, Inc., (U.S. PTO Utility 1998)

103 SYSTEM AND METHOD FOR DATABASE ACCESS CONTROL, US PAT 5696898Assignee: Lucent Technologies Inc., (U.S. PTO Utility 1997)

104 SYSTEM AND METHOD FOR PROVIDING PEER LEVEL ACCESS CONTROL ON A NETWORK, US PAT 6233686Assignee: AT & T Corp., (U.S. PTO Utility 2001)

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US District Court Civil Docket

U.S. District - California Central
(Southern Division - Santa Ana)

8:12cv522

Linksmart Wireless Technology Llc v. T-Mobile USA Inc et al

This case was retrieved from the court on Wednesday, January 08, 2014

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Date Filed: **04/05/2012**
Assigned To: **Judge Andrew J. Guilford**
Referred To: **Magistrate Judge Arthur Nakazato**
Nature of suit: **Patent (830)**
Cause: **Fed. Question: Trademark**
Lead Docket: **None**
Other Docket: **None**
Jurisdiction: **Federal Question**

Class Code: **CLOSED**
Closed: **06/26/2013**
Statute: **28:1331**
Jury Demand: **Both**
Demand Amount: **$75,000**
NOS Description: **Patent**

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Date	#	Proceeding Text	Source
04/05/2012	1	COMPLAINT against Defendants Best Western International Inc, Choice Hotels International Inc, Ethostream LLC, Ibahn General Holdings Corp, Intercontinental Hotels Group Resources Inc, Lodgenet Interactive Corp, Marriott International Inc, Ramada Worldwide Inc, Six Continents Hotels Inc and T-Mobile USA Inc. Case assigned to Judge Josephine Staton Tucker for all further proceedings. Discovery referred to Magistrate Judge Arthur Nakazato.(Filing fee $ 350 Paid). Jury Demanded. Filed by Plaintiff Linksmart Wireless Technology LLC.(lwag) (lwag). (Entered: 04/06/2012)	
04/05/2012		21 DAY Summons Issued re Complaint - (Discovery), Complaint - (Discovery), Complaint - (Discovery) 1 as to Defendants Best Western International Inc, Choice Hotels International Inc, Ethostream LLC, Ibahn General Holdings Corp, Intercontinental Hotels Group Resources Inc, Lodgenet Interactive Corp, Marriott International Inc, Ramada Worldwide Inc, Six Continents Hotels Inc and T-Mobile USA Inc. (lwag) (Entered: 04/06/2012)	
04/05/2012	2	CERTIFICATION and Notice of Interested Parties filed by Plaintiff Linksmart Wireless Technology LLC. (lwag) (lwag). (Entered: 04/06/2012)	
04/05/2012	3	NOTICE of Related Case(s) filed by Plaintiff Linksmart Wireless Technology LLC. Related Case(s): 2:08-cv-00264-JRG-RSP; 2:09-cv-00026-DF-CE; 2:08-cv-00385-DF-CE and 2:08-cv-00304-DF-CE. (lwag) (lwag). (Entered: 04/06/2012)	
04/05/2012	4	REPORT ON THE FILING OF AN ACTION Regarding a Patent or a Trademark (Initial Notification) filed by Linksmart Wireless Technology LLC. (lwag) (Entered: 04/06/2012)	
04/05/2012	5	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed.(lwag) (Entered: 04/06/2012)	
04/09/2012	6	INITIAL STANDING ORDER for cases assigned to Judge Josephine Staton Tucker. (Guerrero, Terry) (Entered: 04/09/2012)	
04/17/2012	7	PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant T-Mobile USA Inc served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)	
04/17/2012	8	PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Lodgenet Interactive Corp served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)	
04/17/2012	9	PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Ibahn General Holdings Corp served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached	

to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)

04/17/2012   10   PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Ethostream LLC served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by method of service not specified. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)

04/17/2012   11   PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Ramada Worldwide Inc served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)

04/17/2012   12   PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Marriott International Inc served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)

04/17/2012   13   PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Six Continents Hotels Inc served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)

04/17/2012   14   PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Intercontinental Hotels Group Resources Inc served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)

04/17/2012   15   PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Choice Hotels International Inc served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss, Andrew) (Entered: 04/17/2012)

04/17/2012   16   PROOF OF SERVICE Executed by Plaintiff Linksmart Wireless Technology LLC, upon Defendant Best Western International Inc served on 4/10/2012, answer due 5/1/2012. Service of the Summons and Complaint were executed upon Counsel Pursuant to Stipulation Dated 4/3/2012 attached to Complaint as Exhibit B in compliance with Federal Rules of Civil Procedure by service on a domestic corporation, unincorporated association, or public entity. Original Summons NOT returned. (Weiss,

Andrew) (Entered: 04/17/2012)

04/30/2012   17   NOTICE OF MOTION AND MOTION for Extend Time to File Answer to
6/11/2012 re Complaint - (Discovery), Complaint - (Discovery), Complaint
- (Discovery) 1 filed by Plaintiff Linksmart Wireless Technology LLC.
Motion set for hearing on 6/4/2012 at 10:00 AM before Judge Josephine
Staton Tucker. (Attachments: # 1 Proposed Order)(Weiss, Andrew)
(Entered: 04/30/2012)

05/01/2012   18   MINUTES (IN CHAMBERS): ORDER by Judge Josephine Staton Tucker:
STRIKING NOTICE AND CONSENT TO EXTEND TIME 17 : (See document
for details.) The Courtorders the motion stricken, and orders Plaintiff's
counsel to review carefully the local rules and this Court's ISO. (rla)
(Entered: 05/02/2012)

05/08/2012   19   STIPULATION for Extension of Time to File Answer to 6/11/2012 re
Complaint - (Discovery), Complaint - (Discovery), Complaint - (Discovery)
1 filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1
Proposed Order EXHIBIT A)(Weiss, Andrew) (Entered: 05/08/2012)

05/08/2012   20   APPLICATION for attorney David E. Rogers to Appear Pro Hac Vice(PHV
Fee of $325 receipt number 0973-10343977 paid.) filed by Defendant Best
Western International Inc. (Attachments: # 1 Proposed Order)(Weldon,
Elizabeth) (Entered: 05/08/2012)

05/09/2012   21   ORDER by Judge Josephine Staton Tucker: GRANTING Stipulation to
Extend Time to Respond to Complaint 19 . The time for Defendants to
answer to Plaintiff's Complaint for Patent Infringement Permanent
Injunction and Damages shall be extended up to and including June 11,
2012. (rla) (Entered: 05/10/2012)

05/09/2012   23   ORDER by Judge Josephine Staton Tucker: granting 20 Application to
Appear Pro Hac Vice by Attorney David E. Rogers on behalf of Defendant
Best Western International, Inc., designating Elizabeth M. Weldon as local
counsel. (lt) (Entered: 05/11/2012)

05/11/2012   22   APPLICATION for attorney Michael D. Broaddus to Appear Pro Hac Vice
(PHV Fee of $325 receipt number 0973-10359988 paid.) filed by
defendant Ibahn General Holdings Corp. (Attachments: # 1 Proposed
Order)(Kinsel, Grant) (Entered: 05/11/2012)

05/11/2012   24   APPLICATION for attorney Sid Leach to Appear Pro Hac Vice(PHV Fee of
$325 receipt number 0973-10363942 paid.) filed by Defendant Best
Western International Inc. (Attachments: # 1 Proposed Order)(Weldon,
Elizabeth) (Entered: 05/11/2012)

05/14/2012   25   APPLICATION for attorney Craig Lytle to Appear Pro Hac Vice. (PHV FEE
PAID.) filed by defendant Marriott International Inc. Lodged order. (twdb)
(Entered: 05/15/2012)

05/14/2012   26   APPLICATION for attorney Jeffrey Ahdoot to Appear Pro Hac Vice. (PHV
FEE PAID.) filed by defendant Marriott International Inc. Lodged order.
(twdb) (Entered: 05/15/2012)

05/14/2012   27   APPLICATION for attorney John Cuddihy to Appear Pro Hac Vice. (PHV FEE
PAID.) filed by defendant Marriott International Inc. Lodged order. (twdb)
(Entered: 05/15/2012)

05/17/2012   28   APPLICATION for attorney Kevin P. Anderson to Appear Pro Hac Vice. (PHV
FEE PAID.) filed by defendant Choice Hotels International Inc. (nca)
(Entered: 05/21/2012)

05/17/2012   29   APPLICATION for attorney Gregory R. Lyons to Appear Pro Hac Vice. (PHV
FEE PAID.) filed by defendant Choice Hotels International Inc. (nca)
(Entered: 05/21/2012)

05/24/2012   30   APPLICATION for attorney Brian M. Koide to Appear Pro Hac Vice. (PHV
FEE PAID.) filed by defendant Marriott International Inc. Lodged order.

(twdb) (Entered: 05/25/2012)

06/06/2012 31 ORDER by Judge Josephine Staton Tucker: granting 22 Application to Appear Pro Hac Vice by Attorney Michael D. Broaddus on behalf of iBAHN General Holding Corp, designating Grant E. Kinsel as local counsel. (lt) (Entered: 06/07/2012)

06/06/2012 32 ORDER by Judge Josephine Staton Tucker: granting 24 Application to Appear Pro Hac Vice by Attorney Sid Leach on behalf of Defendant Best Western International, Inc., designating Elizabeth M. Weldon as local counsel. (lt) (Entered: 06/07/2012)

06/06/2012 33 ORDER by Judge Josephine Staton Tucker: granting 25 Application to Appear Pro Hac Vice by Attorney Craig Lytle on behalf of Defendant Marriott International, Inc., designating John S. Gibson as local counsel. (lt) (Entered: 06/07/2012)

06/06/2012 34 ORDER by Judge Josephine Staton Tucker: granting 27 Application to Appear Pro Hac Vice by Attorney John Cuddihay on behalf of Defendant Marriott International, Inc., designating John S. Gibson as local counsel. (lt) (Entered: 06/07/2012)

06/06/2012 35 ORDER by Judge Josephine Staton Tucker: granting 29 Application to Appear Pro Hac Vice by Attorney Gregory R. Lyons on behalf of Defendant Choice Hotels International, Inc., designating George B. Newhouse, Jr. as local counsel. (lt) (Entered: 06/07/2012)

06/06/2012 36 ORDER by Judge Josephine Staton Tucker: granting 26 Application to Appear Pro Hac Vice by Attorney Jeffrey Abbot on behalf of Defendant Marriott International, Inc., designating John S. Gibson as local counsel. (lt) (Entered: 06/07/2012)

06/06/2012 37 ORDER by Judge Josephine Staton Tucker: granting 30 Application to Appear Pro Hac Vice by Attorney Brian Koide on behalf of Defendant Marriott International, Inc., designating John S. Gibson as local counsel. (lt) (Entered: 06/07/2012)

06/06/2012 38 ORDER by Judge Josephine Staton Tucker: granting 28 Application to Appear Pro Hac Vice by Attorney Kevin P. Anderson on behalf of Defendant Choice Hotels International, Inc., designating George B. Newhouse, Jr. as local counsel. (lt) (Entered: 06/07/2012)

06/11/2012 39 NOTICE of Manual Filing filed by Defendant Best Western International Inc of Answer, Defenses and Counterclaims. (Rogers, David) (Entered: 06/11/2012)

06/11/2012 40 NOTICE of Appearance filed by attorney David M Stein on behalf of Defendants Ethostream LLC, Ramada Worldwide Inc (Stein, David) (Entered: 06/11/2012)

06/11/2012 41 Certification and Notice of Interested Parties filed by Defendant Best Western International Inc, identifying Best Western International, Inc.. (Rogers, David) (Entered: 06/11/2012)

06/11/2012 42 ANSWER to Complaint - (Discovery), Complaint - (Discovery), Complaint - (Discovery) 1 filed by Defendant Ibahn General Holdings Corp.(Kinsel, Grant) (Entered: 06/11/2012)

06/11/2012 43 NOTICE of Manual Filing filed by Defendant T-Mobile USA Inc of Defendant T-Mobile USA, Inc.s Answer And Counterclaims; Defendant T-Mobile USA, Inc.s Corporate Disclosure Statement Pursuant To Federal Rules Of Civil Procedure 7.1 And Certification As To Interested Parties Pursuant To Local Rule 7.1-1; Proof Of Service. (Jay, Michael) (Entered: 06/11/2012)

06/11/2012 44 NOTICE of Manual Filing filed by Defendants Ethostream LLC, Ramada Worldwide Inc of Defendant Ramada Worldwide, Inc.'s Answer and Counterclaims; Defendant EthoStream, LLC's Answer and Counterclaims. (Stein, David) (Entered: 06/11/2012)

06/11/2012   45   ANSWER to Complaint - (Discovery), Complaint - (Discovery), Complaint - (Discovery) 1 with JURY DEMAND filed by Defendant Choice Hotels International Inc.(Newhouse, George) (Entered: 06/11/2012)

06/11/2012   46   CORPORATE DISCLOSURE STATEMENT filed by Defendant Choice Hotels International Inc (Newhouse, George) (Entered: 06/11/2012)

06/11/2012   47   Certificate and Notice of Interested Parties filed by Defendant Choice Hotels International Inc, (Newhouse, George) (Entered: 06/11/2012)

06/11/2012   48   NOTICE of Manual Filing filed by Defendant Marriott International Inc of Marriott International, Inc.'s Answer and Counterclaims to Linksmart Wireless Technology, LLC's Complaint. (Gibson, John) (Entered: 06/11/2012)

06/11/2012   49   NOTICE of Appearance filed by attorney John S Gibson on behalf of Defendant Marriott International Inc (Gibson, John) (Entered: 06/11/2012)

06/11/2012   50   Certification and Notice of Interested Parties filed by Defendant Marriott International Inc, identifying T.Rowe Price Associates, Inc.. (Gibson, John) (Entered: 06/11/2012)

06/11/2012   51   CORPORATE DISCLOSURE STATEMENT Pursuant to Fed. R. Civ. P. 7.1 filed by Defendant Marriott International Inc (Gibson, John) (Entered: 06/11/2012)

06/11/2012   52   Certificate of Interested Parties filed by Defendant Ibahn General Holdings Corp, (Kinsel, Grant) (Entered: 06/11/2012)

06/11/2012   53   STIPULATION Extending Time to Answer the complaint as to Lodgenet Interactive Corp answer now due 6/21/2012, filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order re Stipulation)(Weiss, Andrew) (Entered: 06/11/2012)

06/11/2012   54   CORPORATE DISCLOSURE STATEMENT filed by Defendant Ethostream LLC (Stein, David) (Entered: 06/11/2012)

06/11/2012   55   CORPORATE DISCLOSURE STATEMENT filed by Defendant Ramada Worldwide Inc (Stein, David) (Entered: 06/11/2012)

06/11/2012   56   Certification and Notice of Interested Parties filed by Defendant Ramada Worldwide Inc, (Stein, David) (Entered: 06/11/2012)

06/11/2012   57   Certification and Notice of Interested Parties filed by Defendant Ethostream LLC, (Stein, David) (Entered: 06/11/2012)

06/11/2012   58   ANSWER to Complaint - (Discovery) 1 and COUNTERCLAIM against Linksmart Wireless Technology LLC filed by defendant Best Western International Inc.(twdb) (Entered: 06/12/2012)

06/11/2012   59   PROOF OF SERVICE filed by defendants Intercontinental Hotels Group Resources Inc, Six Continents Hotels Inc, served on 06/11/2012. (db) (Entered: 06/13/2012)

06/11/2012   61   RULE 7.1 DISCLOSURE STATEMENT; filed by Defendants Intercontinental Hotels Group Resources Inc, Six Continents Hotels Inc (rla) (Entered: 06/13/2012)

06/11/2012   62   ANSWER to Complaint (Discovery) 1 , AND COUNTERCLAIM against Linksmart Wireless Technology LLC; filed by defendants Six Continents Hotels Inc, Intercontinental Hotels Group Resources Inc.(rla) (Entered: 06/13/2012)

06/11/2012   63   ANSWER to Complaint - (Discovery) 1 , and COUNTERCLAIM against Linksmart Wireless Technology LLC; filed by defendant Ramada Worldwide Inc.(rla) (Entered: 06/13/2012)

06/11/2012   64   ANSWER to Complaint - (Discovery) 1 , and COUNTERCLAIM against Linksmart Wireless Technology LLC; filed by defendant Ethostream LLC. (rla) Modified on 6/13/2012 (rla). (Entered: 06/13/2012)

06/11/2012   65   ANSWER to Complaint - (Discovery) 1 , and COUNTERCLAIM against
                  Linksmart Wireless Technology LLC; filed by defendant T-Mobile USA Inc.
                  (rla) (Entered: 06/13/2012)

06/11/2012   66   ANSWER to Complaint - (Discovery) 1 , and COUNTERCLAIM against
                  Linksmart Wireless Technology LLC; filed by defendant Marriott
                  International Inc.(rla) (Entered: 06/13/2012)

06/11/2012   67   DEMAND for Jury Trial; filed by defendant Ibahn General Holdings Corp.
                  (rla) (Entered: 06/13/2012)

06/11/2012   68   CORPORATE DISCLOSURE STATMENT AND CERTIFICATION of Interested
                  Parties; filed by defendant T-Mobile USA Inc, identifying Corporate Parent
                  Deutsche Telekom AG, Corporate Parent T-Mobile Global Zwischenholding
                  GmbH, Corporate Parent T-Mobile Global Holding GmbII, a German entity
                  for T-Mobile USA Inc. (rla) (Entered: 06/13/2012)

06/11/2012   69   PROOF OF SERVICE of MANUALLY FILED DOCUMENTS filed by
                  defendant/counterclaimant Marriott International Inc, ANSWER AND
                  COUNTERCLAIMS served on 06/11/12. (rla) (Entered: 06/13/2012)

06/11/2012   70   PROOF OF SERVICE filed by defendant T-Mobile USA Inc, ANSWER AND
                  COUNTERCLAIMS, AND CORPORATE DISCLOSURE STATEMENT AND
                  CERTIFICATION AS TO INTERESTED PARTIES; served on 5/18/12. (rla)
                  (Entered: 06/13/2012)

06/13/2012   60   ORDER granting Stipulation Extending Time to Respond to Complaint 53
                  by Judge Josephine Staton Tucker: The time for LodgeNet Interactive
                  Corporation to answer Plaintiff's Complaint for Patent Infringement
                  Permanent Injunction And Damages shall be extended up to and including
                  June 21, 2012. (rla) (Entered: 06/13/2012)

06/14/2012   71   Defendant EthoStream, LLC's Demand For Trial by Jury re: Answer to
                  Complaint (Discovery), Counterclaim 64 (Stein, David) (Entered:
                  06/14/2012)

06/14/2012   72   Defendant Ramada Worldwide, Inc.'s Demand For Trial by Jury re: Answer
                  to Complaint (Discovery), Counterclaim 63 (Stein, David) (Entered:
                  06/14/2012)

06/21/2012   73   NOTICE of Manual Filing filed by Defendant Lodgenet Interactive Corp of
                  Defendant Lodgenet Interactive Corp.'s Answer and Counterclaim to
                  Complaint. (Beteta, Douglas) (Entered: 06/21/2012)

06/21/2012   74   CORPORATE DISCLOSURE STATEMENT AND NOTICE OF INTERESTED
                  PARTIES filed by Defendant Lodgenet Interactive Corp (Beteta, Douglas)
                  (Entered: 06/21/2012)

06/21/2012   75   NOTICE of Appearance filed by attorney Douglas J Beteta on behalf of
                  Defendant Lodgenet Interactive Corp (Beteta, Douglas) (Entered:
                  06/21/2012)

06/21/2012   76   ANSWER to Complaint - (Discovery) 1 , AND COUNTERCLAIM against
                  Linksmart Wireless Technology LLC; filed by defendant Lodgenet
                  Interactive Corp.(rla) (Entered: 06/25/2012)

06/26/2012   77   APPLICATION for attorney Brian G. Gilpin to Appear Pro Hac Vice(PHV Fee
                  of $325 receipt number 0973-10581942 paid.) filed by Defendants
                  Ethostream LLC, Ramada Worldwide Inc. (Attachments: # 1 Proposed
                  Order On Application of Non-Resident Attorney To Appear in a Specific
                  Case)(Stein, David) (Entered: 06/26/2012)

06/26/2012   78   APPLICATION for attorney James D. Peterson to Appear Pro Hac Vice(PHV
                  Fee of $325 receipt number 0973-10582093 paid.) filed by Defendants
                  Ethostream LLC, Ramada Worldwide Inc. (Attachments: # 1 Proposed
                  Order on Application of Non-Resident Attorney to Appear in a Specific
                  Case)(Stein, David) (Entered: 06/26/2012)

06/27/2012   79   NOTICE of Manual Filing filed by Counter Claimant Lodgenet Interactive

Corp, Defendant Lodgenet Interactive Corp of Defendant Lodgenet Interactive Corp.'s First Amended Answer and Counterclaim to Complaint. (Beteta, Douglas) (Entered: 06/27/2012)

06/27/2012 80 NOTICE of Manual Filing filed by Counter Claimants Intercontinental Hotels Group Resources Inc, Six Continents Hotels Inc, Defendants Intercontinental Hotels Group Resources Inc, Six Continents Hotels Inc of Defendants Six Continents Hotels, Inc. and Intercontinental Hotels Group Resources, Inc.'s First Amended Answer and Counterclaims to Plaintiff Linksmart Wireless Technology, LLC's Complaint. (Gibson, Erin) (Entered: 06/27/2012)

06/27/2012 81 AMENDED ANSWER to Answer to Complaint (Discovery), and Counterclaim re 62 filed by defendants Six Continents Hotels Inc, Intercontinental Hotels Group Resources Inc. (twdb) (Entered: 06/28/2012)

06/27/2012 82 AMENDED ANSWER to Answer to Complaint (Discovery), and Counterclaim re 76 filed by defendant Lodgenet Interactive Corp. (twdb) (Entered: 06/28/2012)

06/28/2012 83 ORDER by Judge Josephine Staton Tucker: granting 77 Application to Appear Pro Hac Vice by Attorney Brian G. Gilpin on behalf of Defendants EthoStream and Ramada Worldwide, Inc., designating David Stein as local counsel. (lt) (Entered: 06/29/2012)

06/28/2012 84 ORDER by Judge Josephine Staton Tucker: granting 78 Application to Appear Pro Hac Vice by Attorney James D. Peterson on behalf of Defendants EthoStream and Ramada Worldwide, Inc., designating David Stein as local counsel. (lt) (Entered: 06/29/2012)

06/28/2012 85 ORDER by Judge Josephine Staton Tucker SETTING SCHEDULING CONFERENCE FOR OCTOBER 19, 2012 at 1:30 P.M., COURTROOM 10-A before Judge Josephine Staton Tucker. (rrp) (Entered: 06/29/2012)

07/02/2012 86 APPLICATION for attorney ERIN GREENFIELD MEHTA to Appear Pro Hac Vice(PHV Fee of $325 receipt number 0973-10608353 paid.) filed by DEFENDANT T-Mobile USA Inc. (Attachments: # 1 Proposed Order ORDER ON APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE)(Jay, Michael) (Entered: 07/02/2012)

07/02/2012 87 APPLICATION for attorney SADAF R ABDULLAH to Appear Pro Hac Vice (PHV Fee of $325 receipt number 0973-10608562 paid.) filed by DEFENDANT T-Mobile USA Inc. (Attachments: # 1 Proposed Order ORDER ON APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE)(Jay, Michael) (Entered: 07/02/2012)

07/02/2012 88 APPLICATION for attorney DAVID B. BASSETT to Appear Pro Hac Vice(PHV Fee of $325 receipt number 0973-10608630 paid.) filed by DEFENDANT T-Mobile USA Inc. (Attachments: # 1 Supplement ORDER ON APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE)(Jay, Michael) (Entered: 07/02/2012)

07/02/2012 89 APPLICATION for attorney ADAM ROMERO to Appear Pro Hac Vice(PHV Fee of $325 receipt number 0973-10608826 paid.) filed by DEFENDANT T-Mobile USA Inc. (Attachments: # 1 Proposed Order ORDER ON APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE)(Jay, Michael) (Entered: 07/02/2012)

07/02/2012 90 APPLICATION for attorney NOAH A. LEVINE to Appear Pro Hac Vice(PHV Fee of $325 receipt number 0973-10608879 paid.) filed by DEFENDANT T-Mobile USA Inc. (Attachments: # 1 Proposed Order ORDER ON APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE)(Jay, Michael) (Entered: 07/02/2012)

07/02/2012 91 APPLICATION for attorney KATE SAXTON to Appear Pro Hac Vice(PHV Fee of $325 receipt number 0973-10608931 paid.) filed by DEFENDANT T-Mobile USA Inc. (Attachments: # 1 Proposed Order ORDER ON

		APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE)(Jay, Michael) (Entered: 07/02/2012)
07/05/2012	92	Linksmart's ANSWER to Answer to Complaint (Discovery), Counterclaim 64 filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 07/05/2012)
07/05/2012	93	Linksmart's ANSWER to Answer to Complaint (Discovery), Counterclaim 63 filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 07/05/2012)
07/05/2012	94	Linksmart's ANSWER to Answer to Complaint (Discovery), Counterclaim 58 filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 07/05/2012)
07/05/2012	95	Linksmart's ANSWER to Answer to Complaint (Discovery), Counterclaim 66 filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 07/05/2012)
07/05/2012	96	Linksmart's ANSWER to Answer to Complaint (Discovery), Counterclaim 65 filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 07/05/2012)
07/05/2012	97	ANSWER Linksmart filed by Plaintiff Linksmart Wireless Technology LLC. (Fenster, Marc) (Entered: 07/05/2012)
07/05/2012	98	ORDER by Judge Josephine Staton Tucker: granting 86 Application to Appear Pro Hac Vice by Attorney Erin Greenfield Mehta on behalf of Defendant T-Mobile, designating Michael D. Jay as local counsel. (lt) (Entered: 07/06/2012)
07/05/2012	99	ORDER by Judge Josephine Staton Tucker: granting 87 Application to Appear Pro Hac Vice by Attorney Sadaf R. Abdullah on behalf of Defendant T-Mobile, designating Michael D. Jay as local counsel. (lt) (Entered: 07/06/2012)
07/05/2012	100	ORDER by Judge Josephine Staton Tucker: granting 88 Application to Appear Pro Hac Vice by Attorney David B. Bassett on behalf of Defendant T-Mobile, designating Michael D. Jay as local counsel. (lt) (Entered: 07/06/2012)
07/05/2012	101	ORDER by Judge Josephine Staton Tucker: granting 89 Application to Appear Pro Hac Vice by Attorney Adam Romero on behalf of Defendant T-Mobile, designating Michael D. Jay as local counsel. (lt) (Entered: 07/06/2012)
07/05/2012	102	ORDER by Judge Josephine Staton Tucker: granting 90 Application to Appear Pro Hac Vice by Attorney Noah A. Levine on behalf of Defendant T-Mobile, designating Michael D. Jay as local counsel. (lt) (Entered: 07/06/2012)
07/05/2012	103	ORDER by Judge Josephine Staton Tucker: granting 91 Application to Appear Pro Hac Vice by Attorney Kate Saxton on behalf of Defendant T-Mobile, designating Michael D. Jay as local counsel. (lt) (Entered: 07/06/2012)
07/10/2012	104	NOTICE of Change of address by Noah A Levine attorney for Plaintiff Linksmart Wireless Technology LLC. Changing attorneys address to 7 World Trade Center, New York, NY 10007. Filed by Plaintiff Linksmart Wireless Technology LLC. (Levine, Noah) (Entered: 07/10/2012)
07/16/2012	105	ANSWER to LodgeNet Interactive Corp.'s First Amended Counterclaims filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 07/16/2012)
07/16/2012	106	ANSWER to Six Continents Hotels, Inc. and Intercontinental Hotels Group Resources, Inc.'s First Amended Counterclaims filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 07/16/2012)

07/26/2012 107 NOTICE of Manual Filing filed by Counter Claimant Marriott International Inc, Defendant Marriott International Inc of Marriott International, Inc.'s First Amended Answer and Counterclaims to Linksmart Wireless Technology, LLC's Complaint. (Gibson, John) (Entered: 07/26/2012)

07/26/2012 108 FIRST AMENDED ANSWER AND COUNTERCLAIMS to Answer to Complaint (Discovery), Counterclaim 66 ; filed by defendant Marriott International Inc. (rla) (Entered: 07/27/2012)

07/26/2012 109 PROOF OF SERVICE filed by defendant/counterclaimant Marriott International Inc, re First Amended Answer to Complaint 108 ; served on 7/26/2012. (rla) (Entered: 07/27/2012)

08/01/2012 110 NOTICE of Change of address by Adam P Romero attorney for Defendant T-Mobile USA Inc. Changing attorneys address to 7 World Trade Center, New York, NY 10007. Filed by Defendant T-Mobile USA Inc. (Romero, Adam) (Entered: 08/01/2012)

08/16/2012 111 ANSWER to Defendant Marriott International filed by Plaintiff Linksmart Wireless Technology LLC.(Fenster, Marc) (Entered: 08/16/2012)

08/17/2012 112 NOTICE of Appearance filed by attorney Michael Terrence Boardman on behalf of Plaintiff Linksmart Wireless Technology LLC (Boardman, Michael) (Entered: 08/17/2012)

09/12/2012 113 NOTICE of Appearance filed by attorney Larry C Russ on behalf of Plaintiff Linksmart Wireless Technology LLC (Russ, Larry) (Entered: 09/12/2012)

10/04/2012 114 NOTICE of Appearance filed by attorney Nandan R Padmanabhan on behalf of Counter Claimant T-Mobile USA Inc, Defendant T-Mobile USA Inc (Padmanabhan, Nandan) (Entered: 10/04/2012)

10/04/2012 115 NOTICE of Change of Attorney Information for attorney Nandan R Padmanabhan counsel for Counter Claimant T-Mobile USA Inc, Defendant T-Mobile USA Inc.Michael D. Jay is no longer attorney of record for the aforementioned party in this case for the reason indicated in the G-06 Notice. Filed by defendant T-Mobile USA, Inc. (Padmanabhan, Nandan) (Entered: 10/04/2012)

10/05/2012 116 JOINT REPORT Rule 26(f) Discovery Plan ; estimated length of trial 10 days, filed by Plaintiff Linksmart Wireless Technology LLC.. (Attachments: # 1 Exhibit A - Joint Schedule)(Weiss, Andrew) (Entered: 10/05/2012)

10/17/2012 117 MINUTE ORDER IN CHAMBERS by Judge Josephine Staton Tucker, VACATING SCHEDULING CONFERENCE AND SETTING CASE MANAGEMENT DATES: Scheduling Conference set for hearing on October 19, 2012, is VACATED and taken off calendar, and the following dates are set. Counsel's attention is directed to the Court's Order on Jury Trial filed concurrently with this minute order. Amended Pleadings due by 1/18/2013. Last date to conduct settlement conference is 4/7/2014. Final Pretrial Conference set for 5/30/2014 01:30 PM. Jury Trial set for 6/17/2014 09:00 AM. (See document for further details.) (rla) (Entered: 10/17/2012)

10/17/2012 118 ORDER by Judge Josephine Staton Tucker, ON JURY TRIAL: Final Pretrial Conference: May 30, 2014 at 1:30 p.m.; Exhibit Conference June 13, 2014 at 3:30 p.m.; Trial: June 17, 2014 at 9:00 a.m. (See document for further details.) (rla) (Entered: 10/17/2012)

10/17/2012 119 ORDER/REFERRAL to ADR Procedure No 3 by Judge Josephine Staton Tucker. Case ordered to a private mediator based upon a stipulation of the parties or by the court order. ADR Proceeding to be held no later than 4/7/14. (twdb) (Entered: 10/17/2012)

01/25/2013 120 NOTICE OF MOTION AND MOTION to Stay Case pending Outcome Of Inter Partes Reexamination and Ex Parte Reexamination filed by Defendant Best Western International Inc. Motion set for hearing on 3/15/2013 at 02:30 PM before Judge Josephine Staton Tucker. (Attachments: # 1 Declaration

David E. Rogers, # 2 Proposed Order)(Rogers, David) (Entered: 01/25/2013)

01/28/2013 121 STIPULATION for Order to Set Briefing Dates re Motion to Stay Litigation Pending Outcome of Inter Partes Reexamination and Ex Parte Reexamination filed by Defendant Best Western International Inc. (Attachments: # 1 Proposed Order)(Rogers, David) (Entered: 01/28/2013)

02/05/2013 122 ORDER TO REASSIGN CASE due to self-recusal pursuant to General Order 08-05 by Judge Josephine Staton Tucker. Case transferred from Judge Josephine Staton Tucker to the calendar of Judge Andrew J. Guilford for all further proceedings. Case number now reads as SACV12-522 AG(ANx). (twdb) (Entered: 02/05/2013)

02/11/2013 123 NOTICE OF MOTION re MOTION to Stay Case pending Outcome Of Inter Partes Reexamination and Ex Parte Reexamination 120 [Amended Notice of Hearing] filed by Defendant Best Western International Inc. Motion set for hearing on 3/11/2013 at 10:00 AM before Judge Andrew J. Guilford. (Weldon, Elizabeth) (Entered: 02/11/2013)

02/11/2013 124 Plaintiff Linksmart Wireless Technology, LLC's Opposition re: MOTION to Stay Case pending Outcome Of Inter Partes Reexamination and Ex Parte Reexamination 120 filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Declaration of Andrew D. Weiss in support of Opposition to Motion to Stay Case Litigation, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G, # 9 Exhibit H, # 10 Exhibit I, # 11 Proposed Order Denying Motion to Stay Case Litigation)(Weiss, Andrew) (Entered: 02/11/2013)

02/12/2013 125 ORDER by Judge Andrew J. Guilford, re Stipulation for Order 121 . ORDERS as follows: 1. Plaintiff shall file and serve any opposition to the Motion on or before February 11, 2013. 2. Defendants shall file and serve any reply relating to the Motion on or before February 22, 2013. (twdb) (Entered: 02/12/2013)

02/15/2013 126 NOTICE filed by Defendant-Counterclaimant Lodgenet Interactive Corp. of Stay Under 11 U.S.C. Section 362 (Beteta, Douglas) (Entered: 02/15/2013)

02/15/2013 127 STATEMENT Joint Claim Construction and Prehearing filed by Defendant T-Mobile USA Inc (Attachments: # 1 Exhibit Ex. A to Joint Claim Construction and Prehearing Statement)(Padmanabhan, Nandan) (Entered: 02/15/2013)

02/22/2013 128 REPLY in support of MOTION to Stay Case pending Outcome Of Inter Partes Reexamination and Ex Parte Reexamination 120 filed by Defendant Best Western International Inc. (Attachments: # 1 Exhibit 2 - Declaration of David E. Rogers [Exs. 2A-2F])(Rogers, David) (Entered: 02/22/2013)

03/11/2013 129 MINUTES OF Motion Hearing held before Judge Andrew J. Guilford: DEFENDANTS' MOTION TO STAY LITIGATION PENDING OUTCOME OF INTER PARTES REEXAMINATION AND EX PARTE REEXAMINATION [DKT #120, 123]: Cause is called for hearing and counsel make their appearances. Matter is argued and taken under submission. Court Reporter: Denise Paddock. (rla) (Entered: 03/11/2013)

03/14/2013 130 MINUTES (IN CHAMBERS): ORDER by Judge Andrew J. Guilford: DENYING MOTION TO STAY LITIGATION PENDING OUTCOME OF EX PARTE AND INTER PARTES REEXAMINATIONS: (See document for details.) (rla) (Entered: 03/15/2013)

03/18/2013 131 TRANSCRIPT ORDER as to Defendant and Counterclaimant T-Mobile USA Inc Court Reporter. Court will contact Adam Romero at adam.romero@wilmerhale.com with any questions regarding this order. Transcript portion requested: Other: 3/11/2013 Hearing on Motion to Stay Litigation. Transcript preparation will not begin until payment has been

satisfied with the court reporter/recorder. (Romero, Adam) (Entered: 03/18/2013)

04/01/2013   132   STIPULATION for Extension of Time to File Responsive Claim Construction Brief and Plaintiff's Reply Claim Construction Brief and to Conduct the Depositions of Dr. Kevin Jeffay and Dr. Tal Lavian filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order) (Weiss, Andrew) (Entered: 04/01/2013)

04/01/2013   133   Plaintiff Linksmart Wireless Technology, LLC's Opening Claim Construction Brief BRIEF filed by Plaintiff Linksmart Wireless Technology LLC. (Weiss, Andrew) (Entered: 04/01/2013)

04/01/2013   134   DECLARATION of Andrew D. Weiss re Brief (non-motion non-appeal) 133 filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G)(Weiss, Andrew) (Entered: 04/01/2013)

04/05/2013   135   ORDER by Judge Andrew J. Guilford, granting Stipulation for Extension of Time to File Response/Reply 132 . (Claim Construction Hearing set for 6/4/2013 09:00 AM before Judge Andrew J. Guilford.) (twdb) (Entered: 04/05/2013)

04/12/2013   136   Joint STIPULATION to Exceed Page Limitation as to Responsive and Reply Claim Construction Briefs filed by defendant T-Mobile USA Inc. (Attachments: # 1 Proposed Order RE: stipulation for the parties to exceed the default page limits for their responsive and reply claim construction briefs by ten pages)(Padmanabhan, Nandan) (Entered: 04/12/2013)

04/16/2013   137   ORDER by Judge Andrew J. Guilford re Stipulation for the Parties to Exceed the Default Page Limits for Their Responsive and Reply Claim Construciton Briefs by Ten Pages. it is ordered that the Defendants Joint Responsive Claim Construction Brief, due on April 22, 2013, will be limited to no more than thirty-five (35) pages in length and Linksmarts Reply Claim Construction Brief, due on May 6, 2013, will be limited to no more than thirty-five (35) pages in length. (db) (Entered: 04/16/2013)

04/19/2013   138   NOTICE of Appearance filed by attorney Robert F Gookin on behalf of Plaintiff Linksmart Wireless Technology LLC (Gookin, Robert) (Entered: 04/19/2013)

04/22/2013   139   BRIEF filed by Defendant-Counterclaimant Best Western International Inc, Choice Hotels International Inc, Ethostream LLC, Ibahn General Holdings Corp, Intercontinental Hotels Group Resources Inc, Marriott International Inc, Ramada Worldwide Inc, Six Continents Hotels Inc, T-Mobile USA Inc. re CLAIM CONSTRUCTION (Romero, Adam) (Entered: 04/22/2013)

04/22/2013   140   DECLARATION of Adam P. Romero re Brief (non-motion non-appeal), 139 filed by Counter Claimant T-Mobile USA Inc, Defendant T-Mobile USA Inc. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K)(Romero, Adam) (Entered: 04/22/2013)

04/22/2013   141   DECLARATION of David E. Rogers re Brief (non-motion non-appeal), 139 filed by Counter Claimant Best Western International Inc, Defendant Best Western International Inc. (Romero, Adam) (Entered: 04/22/2013)

05/06/2013   142   REPLY Claim Construction Brief filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Declaration of Andrew D. Weiss, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F)(Weiss, Andrew) (Entered: 05/06/2013)

05/08/2013   143   NOTICE of Appearance filed by attorney Bethany M Stevens on behalf of Counter Claimant T-Mobile USA Inc, Defendant T-Mobile USA Inc (Stevens, Bethany) (Entered: 05/08/2013)

05/08/2013   144   NOTICE of Change of Attorney Information for attorney Bethany M

Stevens counsel for Counter Claimant T-Mobile USA Inc, Defendant T-Mobile USA Inc.Nandan R. Padmanabhan is no longer attorney of record for the aforementioned party in this case for the reason indicated in the G-06 Notice. Filed by defendant T-Mobile USA, Inc. (Stevens, Bethany) (Entered: 05/08/2013)

05/08/2013 145 NOTICE OF MOTION AND MOTION for attorney Zachary Paul Piccolomini to Appear Pro Hac Vice(PHV Fee of $325 receipt number 0973-12081997 paid.) filed by defendant T-Mobile USA Inc. (Attachments: # 1 Certificate of Good Standing, # 2 Proposed Order)(Stevens, Bethany) (Entered: 05/08/2013)

05/09/2013 146 ORDER by Judge Andrew J. Guilford: granting 145 Motion to Appear Pro Hac Vice by Attorney Zachary Paul Piccolomini on behalf of Defendant T-Mobil USA, Inc., designating Bethany Stevens as local counsel. (lt) (Entered: 05/10/2013)

05/13/2013 147 NOTICE of Change of Attorney Information for attorney John S Gibson counsel for Defendant Marriott International Inc. Jeffrey D. Adhoot will no longer receive service of documents from the Clerks Office for the reason indicated in the G-06 Notice.Jeffrey D. Adhoot is no longer attorney of record for the aforementioned party in this case for the reason indicated in the G-06 Notice. Filed by Defendant Marriott International, Inc. (Gibson, John) (Entered: 05/13/2013)

05/13/2013 148 CORPORATE DISCLOSURE STATEMENT (AMENDED) filed by Counter Claimant T-Mobile USA Inc, Defendant T-Mobile USA Inc identifying T-Mobile US, Inc. as Corporate Parent. (Romero, Adam) (Entered: 05/13/2013)

05/14/2013 149 SCHEDULING NOTICE: On the Court's own motion, the Claim Construction Hearing previously scheduled for 6/4/2013 at 9:00 am is continued to 6/6/2013 at 9:00 am.THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY.(lb) TEXT ONLY ENTRY (Entered: 05/14/2013)

05/22/2013 150 Joint STIPULATION to Continue Claim Construction Hearing from June 6, 2013 to July 16, 2013 filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered: 05/22/2013)

05/23/2013 151 ORDER by Judge Andrew J. Guilford, granting Stipulation to Continue 150 . (Claim Construction Hearing continued to 7/17/2013 09:00 AM before Judge Andrew J. Guilford.) (twdb) (Entered: 05/23/2013)

06/07/2013 152 APPLICATION for attorney Kirk R. Ruthenberg to Appear Pro Hac Vice(PHV Fee of $325 receipt number 0973-12231501 paid.) filed by defendant T-Mobile USA Inc. (Attachments: # 1 Proposed Order)(Stevens, Bethany) (Entered: 06/07/2013)

06/10/2013 153 NOTICE OF MOTION AND MOTION for Reconsideration re Order on Motion to Stay Case 130 filed by Defendants Best Western International Inc, Choice Hotels International Inc, Ethostream LLC, Ibahn General Holdings Corp, Intercontinental Hotels Group Resources Inc, Marriott International Inc, Ramada Worldwide Inc, Six Continents Hotels Inc, T-Mobile USA Inc. Motion set for hearing on 7/8/2013 at 10:00 AM before Judge Andrew J. Guilford. (Romero, Adam) (Entered: 06/10/2013)

06/10/2013 154 DECLARATION of Adam P. Romero in support of MOTION for Reconsideration re Order on Motion to Stay Case 130 153 filed by Counter Claimant T-Mobile USA Inc, Defendant T-Mobile USA Inc. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C)(Romero, Adam) (Entered: 06/10/2013)

06/10/2013 155 NOTICE OF LODGING OF PROPOSED ORDER re MOTION for Reconsideration re Order on Motion to Stay Case 130 153 filed by Counter Claimants Best Western International Inc, Ethostream LLC, Intercontinental Hotels Group Resources Inc, Marriott International Inc,

Ramada Worldwide Inc, Six Continents Hotels Inc, T-Mobile USA Inc, Defendants Best Western International Inc, Choice Hotels International Inc, Ethostream LLC, Ibahn General Holdings Corp, Intercontinental Hotels Group Resources Inc, Marriott International Inc, Ramada Worldwide Inc, Six Continents Hotels Inc, T-Mobile USA Inc. (Attachments: # 1 Proposed Order)(Romero, Adam) (Entered: 06/10/2013)

06/11/2013 156 ORDER by Judge Andrew J. Guilford: granting 152 Application to Appear Pro Hac Vice by Attorney Kirk R. Ruthenberg on behalf of Defendant, designating Bethany M. Stevens as local counsel. (lt) (Entered: 06/11/2013)

06/11/2013 157 Notice of Electronic Filing re Order on Application to Appear Pro Hac Vice 156 e-mailed to kirk.ruithenberg@dentons.com bounced due to 5.1.0 - Unknown address error 550-'Invalid Recipient. Primary e-mail address corrected. Notice of Electronic Filing resent addressed to kirk.ruthenberg@dentons.com. Pursuant to Local Rules it is the attorneys obligation to maintain all personal contact information including e-mail address in the CM/ECF system. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY.(tyw) TEXT ONLY ENTRY (Entered: 06/11/2013)

06/17/2013 158 STIPULATION for Extension of Time to File to Defendants' Motion for Reconsideration of Motion to Stay Litigation filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered: 06/17/2013)

06/17/2013 159 ORDER by Judge Andrew J. Guilford, Granting Stipulation for Extension of Time to Respond to Motion for Reconsideration of Motion to Stay Litigation 158 : The time for Linksmart to respond to Defendants' Motion for Reconsideration of Motion to Stay Litigation shall be extended up to and including June 19, 2013. (rla) (Entered: 06/17/2013)

06/19/2013 160 Opposition to Defendants' Motion for Reconsideration of Motion to Stay Ligitation re: MOTION for Reconsideration re Order on Motion to Stay Case 130 153 filed by Plaintiff Linksmart Wireless Technology LLC. (Weiss, Andrew) (Entered: 06/19/2013)

06/21/2013 161 STIPULATION to Stay Case pending Preparation of Settlement Agreement filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered: 06/21/2013)

06/26/2013 162 ORDER by Judge Andrew J. Guilford, granting Stipulation to Stay Case pending Preparation of Settlement Agreement 161 . (Made JS-6. Case Terminated.) (twdb) (Entered: 07/01/2013)

07/24/2013 163 Joint STIPULATION to Stay Case pending Preparation of Settlement Agreements filed by Defendant T-Mobile USA Inc. (Attachments: # 1 Proposed Order)(Romero, Adam) (Entered: 07/24/2013)

07/26/2013 164 REPORT ON THE DETERMINATION OF AN ACTION Regarding a Patent or Trademark. (Closing) (Attachments: # 1 order) (twdb) (Entered: 07/26/2013)

07/26/2013 165 MINUTE ORDER IN CHAMBERS by Judge Andrew J. Guilford: ORDER DENYING REQUEST TOCONTINUE HEARING. The Court DENIES the request to continue the statusconference. (twdb) (Entered: 07/26/2013)

07/26/2013 166 NOTICE of Appearance filed by attorney Michael J Song on behalf of Defendant Ibahn General Holdings Corp (Song, Michael) (Entered: 07/26/2013)

07/29/2013 167 MINUTES OF Status Conference RE Settlement held before Judge Andrew J. Guilford:Cause is called for hearing and counsel make their appearances. Court and counsel confer. Court finds cause for granting additional time to finalize settlement. The Status Conference Re Settlement is continued to September 9, 2013, at 9:00 a.m.Court

Reporter: Denise Paddock. (twdb) (Entered: 07/29/2013)

08/26/2013 168 NOTICE OF MOTION AND Joint MOTION to Dismiss Defendant Best Western International Inc filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered: 08/26/2013)

08/28/2013 169 ORDER by Judge Andrew J. Guilford: granting 168 Joint Motion to Dismiss Defendant Best Western International Inc., with prejudice. (twdb) (Entered: 08/28/2013)

09/06/2013 170 NOTICE of Bankruptcy Stay Under 11 U.S.C. § 362 filed by defendant Ibahn General Holdings Corp. (Song, Michael) (Entered: 09/06/2013)

09/06/2013 171 NOTICE of Settlement Agreement Between Linksmart Wireless Technology, LLC and Ramada Worldwide, Inc. filed by Plaintiff Linksmart Wireless Technology LLC. (Weiss, Andrew) (Entered: 09/06/2013)

09/08/2013 172 NOTICE of Settlement Agreement Between Linksmart Wireless Technology, LLC and T-Mobile USA, Inc. filed by Defendant T-Mobile USA Inc. (Romero, Adam) (Entered: 09/08/2013)

09/09/2013 173 MINUTES OF Status Conference RE Settlement held before Judge Andrew J. Guilford: Cause is called for hearing and counsel make their appearances. Court and counsel confer. Court finds cause for granting additional time to finalize settlement. Status Conference continued to 9/23/2013 09:00 AM before Judge Andrew J. Guilford.Court Reporter: Denise Paddock. (twdb) (Entered: 09/10/2013)

09/10/2013 174 APPLICATION to Dismiss Defendant InterContinental Hotels Group Resources, Inc., and Six Continents Hotels, Inc. with Prejudice Linksmart Wireless Technology LLC filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered: 09/10/2013)

09/13/2013 175 NOTICE OF MOTION AND Joint MOTION to Dismiss Choice Hotels International, Inc., with Prejudice Linksmart Wireless Technology LLC filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered: 09/13/2013)

09/13/2013 176 NOTICE OF MOTION AND Joint MOTION to Dismiss Defendant Ramada Worldwide Inc with Prejudice filed by Plaintiff Linksmart Wireless Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered: 09/13/2013)

09/16/2013 177 ORDER by Judge Andrew J. Guilford: granting 176 Motion to Dismiss Defendant Ramada Worldwide Inc. Terminating Ramada Worldwide Inc. (twdb) (Entered: 09/16/2013)

09/16/2013 178 ORDER by Judge Andrew J. Guilford: granting 175 Motion to Dismiss Defendant Choice Hotels International Inc. Terminating Choice Hotels International Inc. (twdb) (Entered: 09/16/2013)

09/16/2013 179 ORDER by Judge Andrew J. Guilford, granting APPLICATION to Dismiss Defendant InterContinental Hotels Group Resources, Inc., and Six Continents Hotels, Inc. with Prejudice Linksmart Wireless Technology LLC 174 . Intercontinental Hotels Group Resources Inc and Six Continents Hotels Inc terminated. (twdb) (Entered: 09/17/2013)

09/20/2013 180 NOTICE of Settlement Agreement Between Linksmart Wireless Technology, LLC and EthoStream LLC filed by Plaintiff Linksmart Wireless Technology LLC. (Weiss, Andrew) (Entered: 09/20/2013)

09/23/2013 181 MINUTES OF Status Conference RE Settlement held before Judge Andrew J. Guilford:Status Conference set for 10/28/2013 09:00 AM before Judge Andrew J. Guilford.Court Reporter: Denise Paddock. (twdb) (Entered: 09/24/2013)

09/27/2013 182 NOTICE OF MOTION AND Joint MOTION to Dismiss Defendant T-Mobile

USA Inc filed by Plaintiff Linksmart Wireless Technology LLC.
(Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered:
09/27/2013)

10/02/2013 183 NOTICE OF MOTION AND Joint MOTION to Dismiss Defendant Ethostream
LLC with Predjuice filed by Plaintiff Linksmart Wireless Technology LLC.
(Attachments: # 1 Proposed Order)(Weiss, Andrew) (Entered:
10/02/2013)

10/03/2013 184 NOTICE OF MOTION AND Joint MOTION to Dismiss Defendant Marriott
International Inc with Prejudice filed by Plaintiff Linksmart Wireless
Technology LLC. (Attachments: # 1 Proposed Order)(Weiss, Andrew)
(Entered: 10/03/2013)

10/03/2013 185 ORDER by Judge Andrew J. Guilford: granting 184 Motion to Dismiss
Defendant Marriott International Inc. Terminating Marriott International
Inc. (twdb) (Entered: 10/03/2013)

10/07/2013 186 ORDER Granting Joint Motion to Dismiss T-Mobile USA, Inc 182 , by Judge
Andrew J. Guilford. On this day, Plaintiff and Counterclaim Defendant
Linksmart Wireless Technology, LLC ("Linksmart") and Defendant and
Counterclaimant T-Mobile USA, Inc. ("T-Mobile"), announced to the Court
that they have settled their respective claims for relief asserted in this
case. The Court, having considered this request, is of the opinion that
their request of dismissal should be GRANTED. IT IS THEREFORE
ORDERED that the above-entitled cause and all claims against T-Mobile by
Linksmart herein are dismissed, with prejudice as to the refiling of same
and all claims against Linksmart by T-Mobile are dismissed without
prejudice to the re-filing of same. IT IS FURTHER ORDERED that all
attorneys' fees, costs of court and expenses shall be borne by the party
that incurred them. This is a final judgment. IT IS SO ORDERED. (dro)
(Entered: 10/08/2013)

10/10/2013 187 ORDER by Judge Andrew J. Guilford: granting 182 Joint Motion to Dismiss
Defendant T-Mobile USA Inc. (twdb) (Entered: 10/11/2013)

10/10/2013 188 ORDER by Judge Andrew J. Guilford: granting 183 Joint Motion to Dismiss
Defendant Ethostream LLC. Terminating Ethostream LLC. (twdb) (Entered:
10/11/2013)

10/28/2013 189 MINUTES OF Status Conference RE Settlement held before Judge Andrew
J. Guilford:Cause is called for hearing and counsel make their
appearances. Court and counsel confer. Counsel for plaintiff and
defendants Ibahn and Lodgenet shall file a joint status report every three
months on the first of the month with the first report due on December 1,
2013.Court Reporter: Denise Paddock. (twdb) (Entered: 10/29/2013)

11/06/2013 190 REQUEST to Substitute attorney Mark E. Ungerman in place of attorney
Douglas J. Beteta filed by Defendant Lodgenet Interactive Corp.
(Attachments: # 1 Proposed Order)(Beteta, Douglas) (Entered:
11/06/2013)

12/02/2013 191 STATUS REPORT JOINT STATUS REPORT filed by Plaintiff Linksmart
Wireless Technology LLC. (Weiss, Andrew) (Entered: 12/02/2013)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Koichiro Ikudome, et al.	§	Docket No. 43614.61
Inter Partes **Reexamination**	§	
	§	Examiner: WORJLOH, Jalatee
Patent No. 6,779,118	§	
	§	Art Unit: 3992
Proceeding Nos.: 95/002,035 and	§	
90/012,342 (merged)	§	Conf. No. 1745
	§	
For: User specific automatic data redirection system		

Mail Stop: *Inter Partes* Reexamination
Commissioner for Patents
United States Patent & Trademark Office
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Alexandria, VA 22313-1450

THIRD PARTY REQUESTER'S

RESPONDENT BRIEF

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This is the Respondent Brief of the Third Party Requester in the inter partes reexamination of US 6,779,118 ("the '118 Patent").

I.   Real Party in Interest

The real party in interest is Cisco Systems, Inc. ("Cisco").

II.   Related Appeals and Interferences

There is a pending petition in this reexamination proceeding for supervisory review of the examiner's decision to enter the Patent Owner's declaration evidence submitted after the Action Closing Prosecution. *See* Petition Under 37 CFR §1.181 to Strike Patent Owner's Untimely Declarations from the Record (Oct. 4, 2013).

The '118 Patent is the subject of pending litigation styled as *Linksmart Wireless Technology LLC v. T-Mobile USA Inc., et al.*, Case No. 8-12-cv-00522 (C.D. Cal.). The '118 Patent is also the subject of these prior litigations: *Linksmart v. TJ Hospitality*, No. 2-10-cv-00277 (E.D. Tex.); *Linksmart v. Six Continents Hotels*, No. 2-09-cv-00026 (E.D. Tex.); *LinkSmart v. SBC Internet Servs.*, No. 2-08-cv-00385 (E.D. Tex.); *Linksmart v. Cisco Systems*, No. 2-08-cv-00304(E.D. Tex.); *Linksmart v. T-Mobile USA*, No. 2-08-cv-00264 (E.D. Tex.).

The '118 Patent was the subject of the Board's Decision on Appeal, Reexamination Control No. 90/009301 (Aug. 23, 2011).

III.   Status of Claims

Requester accepts the Patent Owner's statement of the status of claims. Requester understands that the Patent Owner concedes the invalidity of claims 2-7, 9-14, 28-35, and 44-67, which were rejected as obvious over US 5,848,233 to Radia in view of the Admitted Prior Art and further in view of US 6,154,775 to Coss.

IV.   Status of Amendments

Requester accepts the Patent Owner's statement of the status of amendments.

V.   Summary of Claimed Subject Matter

Requester disputes the Patent Owner's summary of the claimed subject matter because it refers to a variety of features that are neither described nor claimed in the '118 patent. For example, the Patent Owner asserts that the '118 patent "enables a provider, such as a hotel or a Wi-Fi hotspot operator, to allow access to a network such as the Internet, conditioned on the payment of a fee." (Patent Owner Appeal Brief [*hereinafter* "PO Br."] at 6.) The '118 patent does not disclose a hotel, Wi-Fi hotspot operator, or wireless networking. Nor does the patent

describe allowing access to the Internet after the payment of a fee. Similarly, the patent does not describe "redirect[ing] the user to a billing webpage where the user can pay for the desired access." PO Br. at 7. Such concepts are neither described nor claimed in the '118 patent.

Requester generally accepts the remainder of the Patent Owner's summary of the claimed subject matter.

VI.   Issues to be Reviewed on Appeal

Requester accepts the Patent Owner's statement of issues.

VII.   Argument

The Examiner correctly rejected all of the remaining claims of the '118 Patent, and the Patent Owner fails to present any persuasive argument or show any error in the Examiner's analysis. The Board should affirm the Examiner's rejections.

Numerous claims are subject to this appeal. The Patent Owner's arguments, however, focus on the "automated modification" limitation in system claim 16, and indicate that the same arguments apply with respect to the other claims, such as method claim 26. *See* PO Br. at 9. Accordingly, claim 16 is a suitable exemplary claim. *See* 37 CFR 41.67 (c)(1)(vii).

"During patent examination, the pending claims must be 'given their broadest reasonable interpretation consistent with the specification.'" (MPEP 2111.) This standard is different from that applied in patent litigation. Accordingly, the claim interpretations in this Respondent Brief are not binding upon the real party in interest in any litigation related to the '118 Patent.

A.   The Examiner Correctly Rejected Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 as Obvious over Willens in view of RFC 2138 and Stockwell Because Willens Teaches Automated Modification of at Least a Portion of the Rule Set

The Examiner correctly rejected claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 as being obvious over to Willens (US 5889958) in view of RFC 2138 and Stockwell (US 5950195).[1] The Examiner also correctly rejected these claims as being obvious over Willens in view of RFC 2138 and the Admitted Prior Art.

The Patent Owner's arguments focus on claim 16's recitation of a redirection server "configured to allow modification of at least a portion of the rule set correlated to the temporarily

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[1] While the Examiner has rejected claims 2-7, 9-14, 28-35, and 44-67 on these grounds, the Patent Owner did not contest the rejection of those claims.

assigned network address."

As the Examiner noted in the Right of Appeal Notice, Willens teaches controlling a user's access to websites on the Internet by consulting a filter rule specific to each user. When a user attempts to access a website, Willens' communications server 14 (a "redirection server") determines whether to allow the access and stores the result in a local cache:

> The server 14 looks at each filter rule found in "F(Timmy)" starting from the top. When it reaches the rule permit "PTA List", the server 14 looks into its local cache 50 to see if www.playboy.com is on the PTA List. If not, the server 14 sends a filter look-up request to the server 18. This look-up contains the list name "PTA List" and the site Timmy is trying to access (www.playboy.com). The server 18 searches list 52 and sends back the result. Based on the result, the server 14 either permits or denies access and updates it's local cache 50.

Willens, 5:64-6:7; *see also* Right of Appeal Notice [*hereinafter* RAN] at 9-10.

The local cache of allowed websites stored on communications server 14 is modified every time the user accesses a new allowable website. The cached list of allowed websites is "at least a portion of the rule set." The updates to the local cache occur while the user is logged into the communication server 14 with a temporary network address. Thus, Willens teaches that the communication server 14 is "configured to allow modification of at least a portion of the rule set correlated to the temporarily assigned network address" as recited in the claim.

Furthermore, Willens' ChoiceNet server 18 "automatically maintains the permit list by *downloading updated versions* of the list over the Internet and compiling the list *for use by the client software* 42," perhaps "on a daily or hourly basis." Willens, 5:41-44, 4:43-44. The "client software 42" is the packet filter on communications server 14 (the "redirection server"). Thus, the rules applied by communications server 14—such as the F(Timmy) rule set, which incorporates the "PTA List" of updateable websites—may be automatically modified every hour. For example, during the course of a student's day at school, additional websites may be discovered that should be allowed or blocked, so they could be added to or removed from the PTA List. Within an hour, the update would reach the ChoiceNet server 18 and, as needed in response to a student's queries, be obtained and applied by the communication server 14 to the student's website requests. Thus, Willens renders obvious modifying a portion of the rule set on communication server 14 while the rule set remains correlated with a user's temporary network address.

1.   The Examiner Correctly Determined That Modifying a List of Permitted Websites Is a "Modification of at Least a Portion of the Rule Set"

The Patent Owner argues that Willens' teaching of updating the list of permitted websites does not teach "modification of at least a portion of the rule set correlated with a temporarily assigned network address." *See* PO Br. at 11. Specifically, the Patent Owner argues that Willens teaches "the modification of the *site list*, not the rule set." PO Br. at 11.

The Patent Owner is incorrect. Willens teaches that one example rule is "the rule permit 'PTA List.'" Willens, 5:66. The list of websites included on the "PTA List" is an integral part of this rule, and changing the list of websites on the "PTA List" unambiguously changes the meaning of the rule "permit 'PTA List.'" Thus, modifying the list of websites incorporated into a rule is a "modification of at least a portion of the rule set."

The Patent Owner also argues that only the ChoiceNet server 18 is updated, and that these updates do not reach the communication server 14. Willens teaches, however, "downloading updated versions of the list over the Internet and compiling the list *for use by the client software*," i.e., the filter programmed in the communication server 14. Willens, 5:42-44. Since Willens teaches that the updates are intended for use by the client software on communication server 14, one of skill in the art would have been motivated to provide the updates from the ChoiceNet server 18 to the communication server 14. One mechanism to ensure that this would happen would be to mark cache entries with an expiration time after which they are discarded. For example, Stockwell teaches that cache entries should only be relied on before their expiration, thus avoiding the use of stale data:

> The reply can *include an expiration date* for the result of this query.
> This is *used internally for caching*. If a duplicate query is made by the
> same agent before the time expires, the cached reply is returned.

Stockwell, 8:30-33 (emph. added). It would have been obvious to apply a similar expiration timer to the cache entries in Willens' communications server 14, thus ensuring that communications server 14 obtains the automatic updates received by ChoiceNet server 18 in a timely fashion.

2.   The Examiner Correctly Applied the Test for Obviousness

The Patent Owner also argues that the examiner failed to "apply the non-obviousness analysis required by *Graham v. John Deere*." PO Br. at 12.

To the contrary, the examiner assessed the scope of the admitted and applied prior art by

adopting the detailed reasoning and analysis included with the request for reexamination. *See* RAN at 20-21 (incorporating by reference the analysis from the Request (Control No. 95/002035) Ex. AA, pp. 2-112). The adopted analysis includes detailed findings regarding the disclosure of each prior art reference, the differences between the prior art and the claims (e.g., Willens does not teach redirection *per se*), and the level of ordinary skill in the art as reflected in the admitted and applied prior art. Furthermore, the examiner's adopted analysis includes a detailed explanation of why a person of ordinary skill in the art would have been motivated to combine the references as used in the rejections.

Accordingly, the Patent Owner's argument that the Examiner failed to properly evaluate the obviousness of the claims is without foundation. The Board should affirm the rejection of claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 as obvious over Willens in view of RFC 2138 and Stockwell.

B.   The Examiner Correctly Rejected Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 as Obvious over Willens in view of RFC 2138 and the Admitted Prior Art

The claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 stand rejected as obvious over Willens in view of RFC 2138 and the Admitted Prior Art. The Patent Owner grouped these rejections together with the rejections based on Willens, RFC 2138, and Stockwell. For reasons analogous to those discussed immediately above, affirmance of these rejections is appropriate.

C.   The Examiner Correctly Rejected Claims 16-24, 26-27, 36-43, 68-90 as Obvious Based in Part on Radia

The Examiner properly rejected various claims based in part on Radia (US5848233) under two separate grounds, which the Patent Owner argues together:

- claims 16-24, 26-27, 36-43, and 68-90 are obvious over Radia in view of Wong'727 (US5835727) and Stockwell (US5950195); and

- claims 16-24 and 68-90 are obvious over Radia in view of Wong'727 (US5835727) and the Admitted Prior Art.[2]

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[2] Requester also proposed rejecting claims 26-27 and 36-43 as obvious over Radia in view of Wong'727 and the Admitted Prior Art in the detailed analysis adopted by the Examiner. *See* RAN at 21; Request Ex. BB at 55-102. Their omission from the rejection appears to be a clerical oversight, not the result of a determination on the merits.

1. Radia Teaches a Redirection Server "Configured to Allow Modification"

As analyzed more fully in the Request for Reexamination, Radia teaches a system in which each user's access to a network is controlled by an individualized set of rules programmed into a router, which then blocks or allows data packets sent between the user's computer and the network. *See, e.g.*, Radia, 6:66-7:2 & 3:18-20. Thus, Radia's router corresponds to the claimed "redirection server" that processes users' data "according to the individualized rule set."

Radia further teaches modifying a user's rule set. For example, Radia teaches that the router initially associates each newly assigned temporary network address with a login profile permitting communication with a limited number of destinations. Radia, 7:22-42. These destinations are essentially those "required for a user to login to network 100," such as the login server. Radia, 7:42-45. After the user successfully logs in, the router is updated with user's packet filter, thus allowing the user access to network resources according to the user's individualized rule set. *See, e.g.*, Radia, 10:6-14. Thus, the user's packet filter is modified *after* the user has obtained a temporary network address and communicated with the login server.

The Patent Owner argues that the redirection server *itself* must make the modification. PO Br. at 14. As the Examiner correctly noted, however, the claim language simply recites that the redirection server is configured to *allow* automated modification of the rule set, "which does not limit the modification to the redirection server." *See* RAN at 12. Furthermore, the '118 Patent includes examples where the redirection server allows signals from the Internet or an outside server to modify the rule set:

> In yet another embodiment, *signals from the Internet* 110 side of redirection server 208 *can be used to modify rule sets* being used by the redirection server. … Of course, the type of *modification an outside server can make to a rule set* on the redirection server is not limited to deleting a redirection rule, but can include any other type of modification to the rule set that is supported by the redirection server as discussed above.

'118 Patent, 7:58-8:11 (emph. added).

As the Examiner correctly concluded, "Patent Owner's argued claim interpretation is inconsistent with the broadest reasonable interpretation in light of the specification, as it would exclude embodiments where the rule set is modified by an outside server." RAN at 12.

Patent Owner also argues that claims 24, 26, 40-43 and 83-90 are distinguishable because they recite "instructions to the redirection server to modify the rule set." PO Br. at 14. Claims 26

and 40-43, however, contain *no such claim language*. The Patent Owner provides no argument for why claims 26 and 40-43 should be interpreted as including an "instructions" limitation. It would be improper and contrary to the broadest reasonable interpretation to treat claims 26 and 40-43 as if they recited such a limitation. Thus, the Patent Owner's arguments relating to "instructions" are not applicable to claims 26 and 40-43.

While claims 24 and 83-90 do recite limitations relating to "instructions" to modify the rule set, Radia unambiguously teaches this concept. With respect to claim 24, for example, the detailed analysis adopted by the Examiner shows that the router 106 (the redirection server) receives instructions to modify its filtering rules from the ANCS server 112:

> In step 602 of method 600, the filtering profile 400 is downloaded by the SMS 114 to the ANCS 112. At the same time, the SMS 114 also passes the IP address of client system 102b to the ANCS 112. In step 604, the *ANCS 112 uses the single filtering rule 404 included in the filtering profile 400 to establish a packet filter for IP packets originating from the client system 102b*. The packet filter is established by reconfiguring one or more of the components of the network 100 that forward packets originating at the client system 102b. For example, in some cases the packet filter may be established by reconfiguring the modem 104b connected to client system 102. Alternatively, *the packet filter may be established by reconfiguring router 106.*

Radia, 6:64–7:8 (emph. added); *see also* Request Exhibit BB at 25 (incorporated by reference in the Right of Appeal Notice at 21). The router 106 receives instructions including, for example, the detailed filtering rules included in the user's filtering profile 400. Thus, the Examiner's analysis shows (and Radia teaches) "instructions to the redirection server to modify the rule set."

The Examiner's analysis is further supported by Radia's disclosure that "ANCS 112 reconfigures the network components using a protocol that is generally applicable to components of network 100, such as the simple network management protocol (SNMP)." Radia, 10:8-11. Thus, Radia does not contemplate that the ANCS 112 directly manipulates the rule set stored in the router 106 without any cooperation from the router 106 (as the Patent Owner seems to suggest). Rather, ANCS 112 sends management protocol messages to the router 106 to establish or update the packet filter (i.e., "modify the rule set"). The simple network management protocol (SNMP) messages sent from the ANCS 112 to reconfigure the router 106 are "instructions to the redirection server to modify the rule set."

Finally, the Patent Owner argues that the Examiner has misread the '118 Patent's description of allowing an outside server to make rule set modifications. *See* PO Br. at 15. The Patent Owner's argument focuses on the description in the specification of sending an *authorization* to the redirection server. The argument fails for several reasons. First, the specification states that the use of authorization is merely preferred, not required. '118 Patent, 7:60-64. Second, none of claims 24 and 83-90 recite any limitation relating to authorization. Finally, the Patent Owner ignores other pertinent description in the '118 Patent. For example, the specification states that "signals from the Internet 110 side of redirection server 208 can be used to modify rule sets." '118 Patent, 7:58-59. Thus, applying the Patent Owner's literal approach to reading the disclosure, the '118 Patent contemplates that the rule set may be modified by "signals from the Internet" (not by the redirection server *itself*).

In summary, the Patent Owner's arguments do not distinguished the claims over Radia. The Board should affirm the Examiner's rejections.

2. The Examiner Correctly Determined that Radia Teaches a "Redirection Server"

The Patent Owner argues that the Examiner erred by looking to the combined functionality of Radia's ANCS 112 and router 106 to teach the "redirection server." PO Br. at 15-16. This argument fails because the Patent Owner has not addressed the broadest reasonable interpretation of the claims, which is that the "redirection server" may be composed of a combination of components. For example, the Patent Owner has admitted in related litigation that the redirection server may be composed of multiple components:

> In the alternative, *the redirection server can be a combination* of the SSG and SESM. The redirection server may also be embodied by a different *combination of hardware and software*. ... In the alternative, the ISG and components of the AAA server, Policy server, Web portal and DHCP server (some of which may be components of SESM) also act as the redirection server."

Linksmart's Infringement Contentions, Request Ex. D2 at 18 (emph. added). The Patent Office may rely on the Patent Owner's claim interpretation in litigation as an admission regarding the broadest reasonable interpretation of the claim. *See* MPEP 2658, 2258 ("The admission can reside ... in litigation. Admissions by the patent owner as to any matter affecting patentability may be utilized..."). Therefore, the Examiner was correct to find that Radia's ANCS 112 and router 106 teach the "redirection server." The Board should be affirm the Examiner's rejections.

Furthermore, Radia teaches flexibility in determining which components in its system perform which functions. For example, Radia teaches that the ANCS may be consolidated with SMS 114 ("authentication accounting server"). *See* Radia, 5:65-6:4. It would have been obvious to try other arrangements, such as consolidating the ANCS with the router 106.

The Patent Owner also argues that "Radia only teaches creation and configuration (but not modification) of filters in the router/modem by the ANCS." PO Br. at 16. The Patent Owner is incorrect. Radia teaches not just configuring the router, but "*re*configuring the router." Radia, 7:8 (emph. added). Furthermore, the Examiner's rejection provided substantial analysis of Radia's teachings with respect to modifying a user's rule set. *See* Request Exhibit BB at 15-17. For example, Radia teaches that a user's computer is assigned a temporary network address and associated with a packet filter that allows communications with a limited number of destinations, such as those required to login to the network. *See* Radia, 7:38-45. After the user successfully logs in, the user's packet filter on the router is updated appropriately. Radia, 10:6-14. Thus, the user's initial packet filter is modified while the temporary network address remains the same. The Patent Owner's argument, which ignores these teachings, is without merit.

3. The Examiner Correctly Applied the Test for Obviousness in Rejecting Claims Based in Part on Radia

The Patent Owner argues that the Examiner applied the wrong test for obviousness, stating that "the Examiner's disregard of the differences between the claimed invention and Radia, and the claimed invention and Stockwell, in reliance on *In re Keller*, is an error." PO Br. at 18. The Patent Owner is incorrect to argue that the claims are nonobvious merely because neither Radia nor Stockwell are anticipation references, and the error in the argument explains the Examiner's basis for citing *In re Keller*. "One cannot show non-obviousness by attacking references individually where the rejections are based on a combination of references." *In re Keller*, 642 F.2d 413 (CCPA 1981). The Patent Owner cannot overcome the Examiner's obviousness rejection merely by showing a difference between the claims and Radia, or between the claims and Stockwell. Instead, the Patent Owner would need to show — but has not shown — a difference between the claim language and the *combination of references*.

Furthermore, Examiner correctly applied the *Graham* test for obviousness. The Examiner assessed the scope of the admitted and applied prior art by adopting the detailed reasoning and analysis included with the request for reexamination. *See* Right of Appeal Notice at 21-22

(incorporating by reference the analysis from Exhibit BB, pp. 2-109). The adopted analysis includes detailed findings regarding the disclosure of each prior art reference, the differences between the prior art and the claims (e.g., Radia does not teach redirection *per se*), and the level of ordinary skill in the art as reflected in the admitted and applied prior art. Furthermore, the Examiner's adopted analysis includes a detailed explanation of why a person of ordinary skill in the art would have been motivated to combine the references as applied in the rejections.

Accordingly, the rejections are supported by the references and should be affirmed.

D. The Examiner Correctly Rejected Claims 40-43 as Obvious Over He, Zenchelsky, Fortinsky, and Admitted Prior Art

The Patent Owner argues that the Examiner should have withdrawn the rejection of claims 40-43 as being obvious over He, Zenchelsky, Fortinsky, and Admitted Prior Art for the same reason that the Examiner withdrew other rejections. Specifically, the Patent Owner states that the "basis for the Examiner's withdrawal of the rejection regarding claims 16-24, 26, 27, 36-39, 68-82 and 84-85 was that none of the cited references teach automated modification of at least a portion of the rule set." PO Br. at 18.

The Patent Owner's restatement of the Examiner's reasoning is incorrect, however. The Examiner noted that claim 16 recites "automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user access." *See* Action Closing Prosecution at 34 (Apr. 29, 2013). "Upon further review, the examiner note[d] that He's authentication lifetime *does not teach the time condition.*" *Id.* (emph. added). Claims 40-43 do not recite a "time" condition, and therefore the Examiner's reason for withdrawing the rejection of claim 16 has no bearing on claims 40-43.

The Patent Owner also argues that claims 40-43 are allowable because they depend from claim 25. PO Br. at 18. Claim 25 was canceled in a previous reexamination, however, after the Board finally determined that the claim was obvious over He in view of Zenchelsky and the Admitted Prior Art. *See* Decision at 10, Control No. 90/009301 (August 23, 2011); '118 Patent Ex Parte Reexamination Certificate No. 8926 (Mar. 27, 2012). Thus, claim 40-43 do not depend from a patentable claim, and their dependence from claim 25 is not relevant.

Because the Patent Owner does not present any argument on the merits with respect to claims 40-43, the Board should affirm the obviousness of these claims.

E. The Examiner Correctly Rejected Claims 16-24, 26, 27, 36-43, and 68-90 as Obvious over Coss in View of the Admitted Prior Art

The Patent Owner argues that the Examiner failed to properly consider the declarations submitted by named inventors Yeung and Ikudome. PO Br. at 18-19. In fact, it was improper for the Examiner to consider these declarations at all, because the Patent Owner *intentionally* delayed in providing the declaration evidence, and therefore *cannot* show "good and sufficient reasons why the affidavit or other evidence is necessary and was not presented earlier." 37 CFR 1.116 (e); *see also* Patent Owner Response at 10 n. 14 (Feb. 7, 2013) ("Patent Owner *is prepared to file Affidavits* under 37 CFR § 131 in support of prior conception and reduction to practice before the filing date of Coss." (emph. added)). Accordingly, the Board should not consider the Patent Owner's arguments that rely on its untimely declarations.[3]

1. The Examiner Correctly Relied on Coss as a Prior Art Reference

Even if the Patent Owner's improper evidence is considered, the declarations are insufficient to establish conception and reduction to practice prior to Coss' priority date. Establishing an actual reduction to practice "requires a showing of the invention in a physical or tangible form *that shows every element* of the [claim]" and that "*will work* for its intended purpose." MPEP 2138.05 (emph. added). Patent Owner fails to make such a showing.

First, the collection of receipts for various hardware and software purchases is not correlated with any of the claim limitations. The receipts merely provided a list of general purpose computer parts — such as Linux software, modems and hard drives—that might have been used for a variety of purposes. Neither the declarants nor the Patent Owner explain how any of the purchased components relate to the claims.

Second, the submitted documents appear to be unrelated to the alleged reduction to practice. The the "Miscellaneous Expenses Claim" worksheet submitted by Moon-Tai Yeung has a "Project" field that is blank. Additionally, the expense claim form has the corporate logo and heading of Infogy, Inc., for whom Mr. Yeung states that he performed "consulting for NASA-JPL and KPMG." Yeung Decl. at 1. The claim form does not have any markings to indicate that it is associated with AuriQ Systems, for whom he allegedly worked to develop the

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[3] Cisco has filed a petition for supervisory review of the Examiner's decision to allow the untimely declarations to be admitted to the record.

claimed technology. *See id.* Thus, the receipts do not corroborate the statements in the declarations.

Third, the declarants' naked statement that they demonstrated a device prior to mid-August 1997 is insufficient to prove an actual reduction to practice. The Patent Owner does not provide a declaration from anyone to whom the device was allegedly demonstrated. The Patent Owner does not even identify any such individuals. The Patent Owner does not explain when the device was allegedly demonstrated, how the device was allegedly demonstrated, or which of the many features now claimed was allegedly demonstrated.

Fourth, the Technical Innovation Report is not shown to support every element of the rejected claims. The Patent Owner bears the burden of proving that it is entitled to an earlier priority date, but Patent Owner does not provide any analysis whatsoever of *any language* of *any claim* relative to the Technical Innovation Report. "Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice 'amounts essentially to mere pleading, unsupported by proof or a showing of facts' and, thus, does not satisfy the requirements of 37 CFR 1.131(b)." MPEP 715.07 (I). Instead of presenting analysis, the Patent Owner argues that the Technical Innovation Report is relevant because of comments in an Order for an earlier *ex parte* reexamination. PO Br. at 19-20. But the Patent Owner does not provide the comments or explain their relevance. Additionally, the claims have changed since that Order, in particular, that reexamination proceeding resulted in the cancellation of all of the original independent claims and amendments to numerous others. In this reexamination, the Patent Owner has presented new claims. Thus, the Patent Owner has not shown that the Technical Innovation Report supports the claims as they stand now.

A review of the Technical Innovation Report shows that it does not support the claims under reexamination. For example, claim 16 recites "a redirection server programmed with a user's rule set correlated to a temporarily assigned network address." The Technical Innovation Report does not describe assigning temporary network addresses or correlating them with a user's rule set. Instead, a user is redirected "based on his login ID." Ikudome Decl., Appendix B at 6. Thus, the Technical Innovation Report does not provide §112 support for "a user's rule set correlated to a temporarily assigned network address" as recited in claim 16.

Claim 16 also recites modifying the rule set "as a function of... location the user accesses." The Technical Innovation Report also states that after a user "attempts to connect to a

Web site" and is redirected, "the server removes the information associated with his session from its registry." *Id.* at 6. The Report clarifies that "(*any* valid) Web site" will trigger redirection and the session's removal. *Id.* at 5. Thus, the Technical Innovation Report describes removing the rule set *regardless* of the website the user attempted to connect to. Thus, the Technical Innovation Report not provide §112 support for modification "as a function of... location the user accesses" as recited in claim 16.

Claim 16 further recites "wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time." The Technical Innovation Report does not describe modifying a rule set as a function of time; it merely states that "filters installed by the server have a preconfigured maximum lifetime." *Id.* at 7. When the lifetime expires, the filter is removed. *Id.* The Examiner has distinguished, however, *removing* a rule set at the end of a preconfigured lifetime and *modifying* a rule set. *See, e.g.*, RAN at 3 ("Willens teaches updating the permit list, but does not expressly disclose removal or reinstatement...."); Action Closing Prosecution at 34 ("He's authentication lifetime does not teach the time condition" of claim 16). Thus, the Technical Innovation Report's disclosure of removing an expired filter does not provide §112 support under the Examiner's interpretation of "modification of at least a portion of the rule set as a function of time" as recited in claim 16.

In summary, the Patent Owner's evidence in support of the alleged prior reduction to practice is entirely insufficient. Although an exhibit need not support all claimed limitations, the missing limitation must be supported by the declaration itself. MPEP 715.07 (I). Neither of the Patent Owner's declarants addresses the significant gaps noted above. Thus, the Patent Owner fails to remove Coss as a prior art reference.

2. The Examiner Correctly Determined That Coss Teaches an Individualized Rule Set

The Patent Owner argues that Coss is deficient as a reference because it describes a rule set shared across multiple users, and therefore does not teach modifying a "rule set correlated to a temporarily assigned network address." PO Br. at 20.

However, the detailed analysis of Coss in view of the Admitted Prior Art adopted by the Examiner (RAN at 72) shows these features. For example, Coss teaches "a single firewall can support *multiple users, each with a separate security policy.*" Coss, 3:31-33 (emph. added). Coss also teaches that rules are associated with an IP address, such as a source or destination IP

address. *See* Coss, 4:4-11 and FIG. 3. The Admitted Prior Art teaches that it was known to provide temporary IP network addresses to users, and the Examiner determined that it would have been obvious to associate Coss' security rules with a temporarily assigned IP address. *See* Request (Control No. 90/012342) at 340-42.

Coss further teaches using "*dynamic rules* [to] allow a given rule set to be modified based on events happening in the network without requiring that the entire rule set be reloaded." Coss, 8:34-36. The Examiner determined that it would have been obvious to apply Coss' dynamic rules to users associated with the temporarily assigned IP address. *See* Request (Control No. 90/012342) at 343. Thus, the Examiner was correct in finding that Coss and the Admitted Prior Art together teach "automated modification of at least a portion of the rule set correlated to the temporarily assigned network address."

The Patent Owner does not address these teachings of Coss relied upon by the Examiner. Instead, the Patent Owner discusses Coss' teaching to cache packet filtering results using a session key and the sharing of rules across multiple users. PO Br. at 20; Coss, 5:42-52. But the Patent Owner does not explain how Coss' caching and session keys undermine the Examiner's adopted analysis. The Patent Owner also does not address Coss' teaching that "Exemplary dynamic rules include a 'one-time' rule which is only used *for a single session*," that is, a dynamic rule applied to a single user. Coss, 8:41-42. Thus, the Patent Owner fails to show any error in the Examiner's rejection.

The Patent Owner also argues that Coss' "dynamic rules" do not correspond to the claim limitation of an "automated modification of at least a portion of the rule set." PO Br. at 20-21. As noted above, Coss teaches that "dynamic rules *allow a given rule to be modified* based on events happening in the network." Coss, 8:34-36 (emph. added). The Patent Owner does not explain why it believes the claim language is distinguishable from the dynamic rule modifications taught by Coss. The Patent Owner emphasizes that Coss does not teach modifying a rule set correlated to a *temporarily* assigned network address (PO Br. at 21), but this is simply because the Admitted Prior Art, not Coss, is relied on to teach *temporarily* assigned network addresses. As the Examiner previously stated, "One cannot show non-obviousness by attacking references individually where the rejections are based on a combination of references." *In re Keller*, 642 F.2d 413 (CCPA 1981). The argument is without merit.

In summary, the Patent Owner has not shown any error in the Examiner's analysis. The

Examiner's obviousness rejections based on Coss and the Admitted Prior Art should be affirmed.

VIII. Evidence Appendix

Requester does not rely on any declarations submitted under 37 CFR 1.130, 1.131, or 1.132.

IX. Related Proceedings Appendix

Filed concurrently with this respondent brief is an appendix containing a copy of the Board's Decision on Appeal in Reexamination Control No. 90/009301 (Aug. 23, 2011).

X. Conclusion

For the reasons provided above, Third Party Requester respectfully asks the Board to affirm all of the Examiner's claim rejections. As identified in the attached Certificate of Service, a copy of the present Respondent Brief, in its entirety, is being served to the address of the attorney or agent of record.

The estimated fees of $2,000.00 for the fee set forth in 37 CFR 41.20(b)(2) have been provided for by credit card separately but concurrently herewith. However, should any additional fees be required, please charge any such fees to Haynes & Boone LLP Deposit Account No. 08-1394.

Respectfully submitted,

/David L. McCombs/

David L. McCombs
Registration No. 32,271

Dated: <u>January 8, 2013</u>
HAYNES AND BOONE, LLP
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R-353046_1.docx

XI. Certificate of Word Count

In accordance with 37 C.F.R. 1.943(c), the undersigned certifies that this Respondent Brief contains 6671 words. The undersigned has relied upon the word count feature in Microsoft Word to provide this count.

/David L. McCombs /

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Registration No. 32,271

XII. Certificate of Service

The undersigned certifies that a copy of the THIRD PARTY REQUESTER'S RESPONDENT BRIEF was served on:

HERSHKOVITZ & ASSOCIATES, PLLC
2845 DUKE STREET
ALEXANDRIA, VA 22314

the attorneys of record for the assignee of USP 6,779,118 and

JAMES J. WONG
2108 GOSSAMER AVE.
REDWOOD CITY, CA 94065

the attorney of record for the requester in Control No. 90/012342, in accordance with 37 C.F.R. 1.903, on January 8, 2014.

/David L. McCombs /

David L. McCombs,
Registration No. 32,271

Related Proceeding Appendix

Board's Decision on Appeal in Reexamination Control No. 90/009,301 (August 23, 2011).

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Panasonic-1012
Page 235 of 1408

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/009,301	12/17/2008	6,779,118 B1	R1341006	6609

40401   7590   08/23/2011
Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
08/23/2011	PAPER

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.

PTOL-90A (Rev. 04/07)

Panasonic-1012
Page 236 of 1408

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

_____

Ex parte LINKSMART WIRELESS TECHNOLOGY, LLC
(U.S. Patent 6,779,118)

_____

Appeal 2011-009566
Reexamination 90/009,301
Technology Center 3900

_____

Before RICHARD TORCZON, SCOTT R. BOALICK and KARL
EASTHOM, *Administrative Patent Judges*.

TORCZON, *Administrative Patent Judge*.

DECISION ON APPEAL
37 C.F.R. § 41.50(a) and (b)

The appellant (LWT) seeks review under 35 U.S.C. 134(b) of the final

rejection of claims 1-47 in its Ikudome patent.[1] The rejection is AFFIRMED

in part and REVERSED in part with a new ground of rejection.

_____

[1] K. Ikudome & M.T. Yeung, *User specific automatic data redirection
system*, US 6,779,118 B1 (granted 17 August 2004).

OPINION

INTRODUCTION

Rejections

LWT's patent issued with twenty-seven claims. During reexamination, LWT added claims 28-47. On appeal, the examiner maintains a rejection of all claims[2] under 35 U.S.C. 103 over the He[3] and Zenchelsky[4] patents, with additional reliance on an admission in the Ikudome patent about the prior art[5] for claims 32, 37, 42 and 47.[6]

Representative claim

For purposes of this appeal, issued patent claim 1 and new claim 32 are broadly representative of the claims on appeal. Claim 1 defines the invention as:

> A system comprising:
> a database with entries correlating each of a plurality of user IDs with an individualized rule set;
> a dial-up network server that receives user IDs from users' computers;
> a redirection server connected to the dial-up network server and a public network, and
> an authentication accounting server connected to the database, the dial-up network server and the redirection server;
> wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily

---

[2] We rely on the claims appendix to the appeal brief (Br. 33-42) for the final claims of record. See Ans. 3 (not commenting on claims appendix).

[3] J. He and R.D. Hall, *Security system and method for network element access*, U.S. Pat. 6,088,451 (granted 11 July 2000).

[4] D.N. Zenchelsky et al., *System and method for providing peer level access control on a network*, US 6,233,686 B1 (granted 15 May 2001).

[5] Ikudome 1:53-57.

[6] Ans. 4 and 22.

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assigned network address for the first user ID to the
authentication accounting server;

wherein the authentication accounting server accesses the
database and communicates the individualized rule set that
correlates with the first user ID and the temporarily assigned
network address to the redirection server; and

wherein data directed toward the public network from the
one of the users' computers are processed by the redirection
server according to the individualized rule set.

Claim 32 depends from claim 1 and adds the further limitation that

the redirection server is configured to redirect data from the
users' computers by replacing a first destination address in an IP
(Internet protocol) packet header by a second destination
address as a function of the individualized rule set.

OBVIOUSNESS

Claim 1

LWT contends that the combination of He and Zenchelsky fail to
teach or suggest (1) a redirection server, (2) an authentication accounting
server communicating an individualized rule set to the redirection server and
(3) data directed toward a
public network and
processed by the
redirection server according to
the individualized rule set.[7] The
examiner finds these
elements in the He patent.
He Figure 10 (right)

FIG. 10

_____

[7] Br. 18.

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depicts a high-level block diagram of a dial-up network including a network security server **208** communicating with a user account registration database **210** and an interconnection network **106**. The network security server **208** comprises an authentication server **202**, a credential server **204** and a network element access server **206**. The examiner relies on He's credential server **204** for the claimed redirection server, on He's authentication server **202** for the claimed authentication server and on text in He describing network authentication and privilege control.[8]

LWT argues that He does not teach redirection, specifically that He's credential server does not redirect a request for one Internet site to a different Internet site.[9] The examiner counters that the redirection server is only claimed as a structure without any expressly claimed functionality for redirecting a request; rather, the examiner points to dependent claims 3 and 4,[10] "wherein the redirection server further" blocks and allows, respectively, "the data to and from the users' computers as a function of the individualized rule set."

During reexamination, a claim (original, amended or new) is accorded the broadest construction that is reasonable in view of the specification[11] because (except for a claim in an expired patent) the patentee is expected to amend the claim to define the invention precisely rather than shift the burden of divining the inventor's intent to the reader.[12] The broadest reasonable construction of "redirection server" requires some sort of redirection

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[8] Ans. 5-6, citing He 18:24-30 & 19:2-8.
[9] Br. 18-19.
[10] Ans. 27-28.
[11] *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1256 (Fed. Cir. 2007).
[12] *Ex parte Papst-Motoren*, 1 USPQ2d 1655, 1655-56 text & n.3 (BPAI 1986), *citing In re Yamamoto*, 740 F.2d 1569, 1571 (Fed. Cir. 1984).

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functionality. By their express terms, blocking and allowing are "further" functions of the redirection server rather than its essential function for purposes of the claim.[13] While LWT has not pointed to an express definition in its written disclosure that would compel this construction, it is more consistent with the disclosure than a construction that did not require redirection. For example, Ikudome writes (emphasis added) that[14]

> It will be clear to one skilled in the art that the invention may be implemented to control (block, allow *and* redirect) any type of service, such as Telnet, FTP, WWW and the like.

This use is consistent throughout the disclosure. By contrast, the examiner's construction would make the adjective "redirection" inapt,[15] if not superfluous. One skilled in the art, having read the Ikudome disclosure, would necessarily understand the redirection server to control by, inter alia, redirecting.

The examiner contends that the user has been redirected if, having failed in a first attempt, the user elects to request access to something else.[16] While as a description of user behavior the examiner's surmise is reasonable, it describes redirection by the user not by the redirection server. The proposed connection between the redirection server's action and the user's response is too attenuated to be properly attributed to the server.

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[13] New claim 32 claims the third function—redirecting—but with further limitations on how the redirecting is accomplished such that the presumption of claim differentiation is not invoked to bar redirecting generally as a limitation of claim 1.

[14] Ikudome 8:12-14.

[15] The generic term in both He and Ikudome is "control", suggesting that LWT would have used "control server" if it had intended to claim more broadly.

[16] Ans. 28.

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The examiner's construction of "redirection server" is overly broad in view of the underlying disclosure. Properly construed, the redirection server must, at a minimum, be configured to redirect something. He's credential server **204**, while providing the control functions of blocking and allowing,[17] does not appear to teach or suggest redirecting, alone or in combination with Zenchelsky.

LWT also contends that the combined references do not teach or suggest the claimed limitation that "data directed toward the public network" is "processed by the redirection server". LWT argues that even if He's credential server were a redirection server, it does not process data directed toward the public network. The examiner responds that LWT is assuming a network topology that claim 1 does not require. The examiner has a point. As He teaches, logical and physical topologies in a network can be very different.[18] The problem lies in the phrase "data directed toward the public network" since He discloses the user communicating with the credential server **204** through the interconnection network **106** directly or via a dial-up network **1004** and server **1002**. Hence, the user sends data ultimately intended for the credential server **204** initially to the interconnection network.[19] Claim 1 does not exclude communication between a user and a control server via a public network. The communication must contain data as that term is broadly construed.

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[17] E.g., He 18:42-19:39.

[18] He 4:33-52.

[19] Cf. Reply 6: "Additionally, if the user communicates information (e.g., the general ticket from the authentication server) to the "credential server" in HE, the elements 102 [the user] and 1002 [the dial-up server] are on one side of the network 106 and the credential server is on the other side of the network [.]"

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Claims 15 and 25

LWT argues two differences for amended independent claim 15 and issued independent claim 25.[20] Claim 15 is a system claim (numbering added) in which the redirection server is configured to allow automated modification of at least a portion of the rule set:

> [1] correlated to the temporarily assigned network address; and
> [2] as a function of some combination of time, data transmitted to or from the user, or location the user accesses.

The examiner notes that the claim says "automated" rather than "automatic" as LWT argues and points to He's "database tool...provided for the system security administrator to create, delete, disable and modify a user account" as the basis for these limitations.[21] He's database tool certainly meets the "automated" requirement since, as the examiner notes, "automated" merely requires use of automation, not the absence of any human intervention. In a computer context, a database tool necessarily involves automated equipment.

The examiner relies on Zenchelsky to meet the first condition of modification. LWT does not address how the examiner is wrong in this regard. LWT does however argue that He's database tool does not teach or suggest the second condition.[22] The examiner relies on He's teaching that authentication should have a "lifetime" to teach the time condition.[23] He does not, however, draw a connection between the authentication lifetime and the administrator's use of the database tool. He, the only reference on

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[20] Br. 26-28. LWT does not argue these claims separately from each other.
[21] Ans. 28-29, citing He 17:19-21.
[22] Br. 28.
[23] Ans. 30, citing He 17:13.

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which the examiner relies to meet the second condition limitation of claim 15, does not in fact teach or suggest this limitation.

Claim 25 is a method claim that does not provide for "automated" modifying or provide conditions facially similar those in claim 15 limitation [2]. The connection between LWT's arguments for these claim 15 elements and the express limitations of claim 25 is unclear. It is not a board function to make arguments for appellants. LWT has not shown prejudicial error in the examiner's rejection of claim 25 beyond the misconstruction of "redirection server".

Claims 32, 37, 42 and 47

Claims 32, 37, 42 and 47 depend from independent claims 1, 8, 15 and 25, respectively. Each adds the further limitation:

> wherein the redirection server is configured to redirect data
> from the users' computers by replacing a first destination
> address in an IP (Internet protocol) packet header by a second
> destination address as a function of the individualized rule set.

In addition to the combination of He and Zenchelsky, the examiner relies on the following statement from the background section of the Ikudome disclosure regarding the prior art:[24]

> The browser next sends a request to the server requesting the
> page. In response to the user's request, the web server sends the
> requested page to the browser. The page, however, contains
> html code instructing the browser to request some other WWW
> page—hence the redirection of the user begins.

---

[24] Ans. 22, citing Ikudome 1:53-57. At p. 32, the examiner more broadly notes the discussion in Ikudome 1:38-67, particularly 1:38-40: "The redirection of Internet traffic is most often done with World Wide Web (WWW) traffic (more specifically, traffic using the HTTP (hypertext transfer protocol))."

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The admission shows that those in the art were familiar with redirection (and how to do it) at least in a world-wide web context. LWT argues that Ikudome does not admit that "redirection in the particular combination claimed [was] known prior art."[25] This argument is entitled to no weight since the examiner used the admission in combination with other references for obviousness rather than relying on it as an anticipation.

LWT also argues that the examiner has not shown replacement as a function of an individualized rule set.[26] The examiner, however, explained that redirection would be used, for example, to direct "users away from closed websites".[27] The examiner does not say what he means by "closed", but read in context with his contention "that blocking/passing is a part of the logic in the redirection process and thus readable as 'redirection'"[28] he appears to mean "blocked". Thus, an address blocked for a particular user would be replaced with another address, perhaps a safer website or a website explaining organizational policy regarding the blocked websites. While the examiner's contention that blocking necessarily includes redirection is not supported in the record, redirection is an obvious extension of the use of a control to block the user.

LWT has not shown prejudicial error in the examiner's rejection of claims 32, 37 and 47. Claim 42 depends from claim 15, for which the rejection did not support redirection based on "the rule set as a function of some combination of time, data transmitted to or from the user, or location

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[25] Br. 30.
[26] *Id.*
[27] Ans. 23-25.
[28] Ans. 28.

the user accesses." However, blocking a website based on these bases would have been obvious.[29] Since redirection would have been an obvious extension of blocking, it follows that the combination of He and Zenchelsky in view of Ikudome's admission would have made redirection based on the same bases obvious as well.

NEW GROUNDS OF REJECTION

Claims 1, 8, 15 and 25

Since claims 32, 37, 42 and 47 depend from independent claims 1, 8, 15 and 25, respectively, it follows that the independent claims must be obvious as well.[30]

HOLDING

The rejection of claims 32, 37, 42 and 47 is AFFIRMED;

The rejection of claims 1, 8, 15 and 25 is REVERSED, but a new ground of rejection is entered under 37 C.F.R. § 41.50(b) as described above.

The rejection of the other claims on appeal is REVERSED.

<u>AFFIRMED IN PART</u>

and

<u>REVERSED IN PART</u>

with a new ground of rejection

KMF

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[29] E.g., blocking a site for a user after discovering inappropriate communications between the user and the website or after discovering the user spends excessive time at a site unrelated to work.

[30] *Callaway Golf Co. v. Acushnet Co.*, 576 F.3d 1331, 1343 (Fed. Cir. 2009) (holding jury verdict inconsistent for holding only the dependent claim to have been obvious); *In re Muchmore*, 433 F.2d 824, 824-25 (CCPA 1970) ("Since we agree with the board's conclusion of obviousness as to these narrow claims, the broader claims must likewise be obvious.").

10

For the appellant: Abraham Hershkovitz & Ed Garcia-Otero, HERSHKOVITZ & ASSOCIATES, LLC, of Alexandria, Virginia.

For the requestor: Jerry Turner Sewell, of Newport Beach, California.

For the Commissioner of Patents: Sam Rimell with Jeffrey D. Carlson and Alexander J. Kosowski, ART UNIT 3392.

Electronic Acknowledgement Receipt

EFS ID:	17856592
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	David L. McCombs/Theresa O'Connor
Filer Authorized By:	David L. McCombs
Attorney Docket Number:	R1341006-D
Receipt Date:	08-JAN-2014
Filing Date:	08-JUN-2012
Time Stamp:	16:26:28
Application Type:	Reexam (Third Party)

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		3PR_Respondent_Brief.pdf	1007451 a4688b3c5ba5fb17480de8de90a4e984c3babe97	yes	19

Multipart Description/PDF files in .zip description		
Document Description	Start	End
Respondent Brief - Requester	1	18
Reexam Certificate of Service	19	19

Warnings:

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2	Reexam - Affidavit/Decl/Exhibit Filed by 3rd Party	Appendix.pdf	463727 _38542f4cd087cfdfbf536bdf99011eb09afce 67e_	no	13

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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.

HERSHKOVITZ & ASSOCIATES, PLLC

PATENT AGENCY

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Inventor: Koichiro Ikudome et al.   Art Unit: 3992

Reexamination Proceeding 90/012,342   Confirmation No.: 5786
(based on U.S. Patent No. 6,779,118)

Reexamination Filed: June 8, 2012   Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

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Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are PATENT OWNER'S APPELLANT BRIEF UNDER 37 CFR
§41.67(c) and a Certificate of Service in the above-captioned Proceeding.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other:				$		$
		Total:		$	Total:	$

___ Fee Payment made through EFS.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
___ The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16
and 1.17, which are required for entry of the papers submitted herewith, and any fees which
may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be
required to complete issuance of this application to Deposit Account No. 50-2929.

                                               Respectfully submitted,

Date: December 9, 2013   /Abe Hershkovitz/
                                               Abraham Hershkovitz
                                               Registration No. 45,294

R1341006D.A09; AH/pjj

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichiro Ikudome

Merged Reexam Proceeding No. 95/002,035 (Main)
and Reexam Proceeding No. 90/012,342
(Based on US 6,779,118 C1)

Filed: September 12, 2012 (Main) and June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Art Unit 3992

Conf. No. 1745
Conf. No. 5786

Examiner Jalatee Worjloh

PATENT OWNER'S APPELLANT BRIEF UNDER 37 CFR §41.67(c)

Mail Stop "*inter partes* Reexam"
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Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

This is Patent Owner's Appellant Brief under 37 CFR §41.67(c) in support of the Notice of Appeal filed October 8, 2013. A Right of Appeal Notice (RAN) was mailed on September 9, 2013 in the above-identified merged *inter partes/ex parte* Reexamination Proceedings (the present Proceedings) for underlying US Patent No. 6,779,118 (the '118 Patent).

Inasmuch as the Notice of Appeal was filed October 8, 2013, and this Appellant Brief is being filed on or before December 9, 2013 (December 8, 2013 falls on a Sunday), Patent Owner respectfully submits that this Appellant Brief is timely filed.

The fee for this Patent Owner's Appellant Brief is being submitted concurrently through EFS. However, the Office is authorized to charge any fee in connection herewith or any fees necessary to preserve the pendency of these Proceedings, or credit any overpayment, to Deposit Account No. 50-2929, referencing Docket No. RI1341006F.

This Patent Owner's Appellant Brief is 30 pages or fewer, not including the Claims Appendix and any reference materials such as prior art references, in accordance with 37 CFR §1.943(c).

A Decision confirming patentability of all claims, and with the "Special Dispatch" to which all Appeals in *inter partes* Reexamination Proceedings are to be held, as set forth in under 35 USC §314 (c), is respectfully requested.

Appeal Brief Under 37 CFR §41.67(c)(1)(i)-(c)(1)(xi)

The following is a Table of Contents for this Brief, with Roman numeral indicators in compliance with 37 CFR §41.67(c).

Table of Contents

(i) Real Party in Interest

The real party in interest in this Appeal is LINKSMART WIRELESS TECHNOLOGY, LLC, as evidenced by the Assignment recorded on July 2, 2008 at Reel/Frame 021185/0416.

(ii) Related Appeals, Interferences, and Trials

There are no other Appeals, Interferences or pending litigation known to Appellant which may be related to, directly affect, be directly affected by or have a bearing on the Board's decision in the present Appeal, other than the merged Reexamination Proceedings identified above.

(iii) Status of Claims

Claims 2-7, 9-14, 16-24 and 26-90 are subject to reexamination in these merged Proceedings, and are finally rejected as indicated in the Right of Appeal Notice (RAN) mailed September 9, 2013. Claims 16-24, 26, 27, 36-43 and 68-90 are subject to the present Appeal.

(iv) Status of Amendments

The RAN expressly entered the Patent Owner's Amendment Under 37 C.F.R. § 1.951 and Response to Action Closing Prosecution (ACP) filed June 28, 2013 and third party requester's comments on Patent Owner's Amendment filed July 26, 2013. No additional submissions were made after the ACP.

(v) Summary of Claimed Subject Matter

Independent claims 16-23 and 36-39 correspond to claims that were dependent from cancelled claim 15 and written in independent form, and dependent claim 24 depends directly from independent claim 23. Claim 68 is somewhat similar to cancelled claim 15, and dependent claims 69-82 depend from independent claim 68. Claim 83 is somewhat similar to cancelled independent claim 25, and dependent claims 84-90 depend from independent claim 83. Dependent claims 26, 27 and 40-43 depend from cancelled independent claim 25.

For the sake of convenience, the claimed invention will be described with respect to independent claims 16-23, 36-39, 68 and 83 with reference to Fig. 2, Column 4, lines 50-66, Column 5, lines 12-44, Column 6, lines 37-49 and Column 7, line 1 through Column 8, line 10 of the '118 Patent, and also by a brief background of the claimed subject matter.

The summary of the claimed subject matter in Claims 16-23 and 36-39 is as follows:

Claim 16...

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address (redirection server 208 in Fig. 2);

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network (Col. 6, lines 37-49);

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address (Col. 5, lines 12-44);

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses (Col. 5, lines 12-44);

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time (Col 5, lines 12-44);

Claim 17...

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the data transmitted to or from the user (Col. 5, lines 12-44);

Claim 18...

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the location or locations the user accesses (Col. 5, lines 12-44);

Claim 19...

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of time (Col. 5, lines 12-44);

Claim 20...

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the data transmitted to or from the user (Col. 5, lines 12-44);

Claim 21...

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the location or locations the user accesses (Col. 5, lines 12-44);

Claim 22...

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location or locations the user accesses (Col. 5, lines 12-44);

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Claim 23...

    wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to a computer network and wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server (redirection server in Fig. 2, user's computer 100 in Fig. 2 connected through the redirection server 208 in Internet 110);

Claim 36...

    wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service (Col. 5, lines 12-44);

Claim 37...

    wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set (Col. 5, lines 12-44);

Claim 38...

    wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address (Col. 6, lines 37-49)

Claim 39...

    wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address (Col. 6, lines 37-49).

    The summary of the claimed subject matter in Claim 68 is as follows:

    a redirection server connected between a user computer and a public network, the redirection server programmed with a users' rule set correlated to a temporarily assigned network address (Col. 4, lines 40-66);

    wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network (Col. 6, lines 37-49);

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address (Col. 5, lines 12-44); and

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wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses (Col. 5, lines 12-44).

The summary of the claimed subject matter in Claim 83 is as follows:

In a system comprising a redirection server connected between a user computer and a public network (redirection server 208 in Fig. 2, Col. 4, lines 50-66), the redirection server containing a user's rule set correlated to a temporarily assigned network address (Col. 5, lines 12-44) wherein the user's rule set contains at least one of a plurality of functions used to control data passing between the user and a public network (Col. 5, lines 12-44); a method comprising the step of:

modifying at least a portion of the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server (Col. 5, lines 12-44); and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network address and a network side connected to a computer network (redirection server in Fig. 2, user's computer 100 in Fig. 2 connected through the redirection server 208 in Internet 110); and

wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server (redirection server in Fig. 2, user's computer 100 in Fig. 2 connected through the redirection server 208 in Internet 110) and the method further includes the step of receiving instructions by the redirection server to modify at least a portion of the user's rule set through one or more of the user side of the redirection server and the network side of the redirection server (Col. 5, lines 12-44).

<u>Brief Discussion of Claimed Subject Matter (Background)</u>

The '118 Patent to Linksmart discloses and claims a system and method for controlling access to a public network (for example, the Internet). The purpose of the '118 Patent is described in the "Summary of the Invention" section as a system and method "for creating and implementing dynamically changing rules to allow the redirection, blocking, or allowing, of specific data traffic for specific users, as a function of database entries and the user's activity." *See* '118 Patent at 2:61-65.

The '118 Patent system enables a provider, such as a hotel or a Wi-Fi hotspot operator, to allow access to a network such as the Internet, conditioned on the payment of a fee, the duration of use, or any other desired condition. To achieve this functionality, the '118 Patent claims a redirection server that enables automated modification of a rule set correlated to a temporarily assigned network

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address (hereinafter referred to as TANA), and that rule set is programmed in the redirection server. To illustrate, once the rule set correlated with the TANA has been programmed in a redirection server, data packets to and from the user's computer are processed by the redirection server according to that rule set correlated with the TANA. The rule set correlated with the TANA programmed in the redirection server may, for example, provide that the redirection server prevent data from passing between the user and the internet for users who have not yet paid for such access and redirect the user to a billing web page where the user can pay for the desired access. Once payment has been made, the rule set is modified by the redirection server to allow access, at least for a period of time. Thus, claim 16 provides that the "the redirection server is configured (i.e., programmed) to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address."

In this way, Internet access (such as through Wi-Fi hotspots or wired connection points in hotels) can be made available to transitory, temporary or new users for different periods of time or for different user-specific conditions.

(vi) Issues to be Reviewed on Appeal

1. Whether Willens in combination with RFC2138, Stockwell or "Admitted Prior Art" (APA), alone or in combination, discloses or renders obvious: "the redirection server…configured to allow automated modification of…the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 as being obvious over Willens in view of RFC2138 and Stockwell; and

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 as being obvious over Willens in view of RFC2138 and APA.

2. Whether Radia in view of Wong '727, Stockwell, Wong '178 or APA, alone or in combination, discloses or renders obvious "the redirection server…configured to allow automated modification of…the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

Claims 16-24, 26-27, 36-43and 68-90 as being obvious over Radia in view of Wong '727, and further in view of Stockwell; and

Claims 16-24, and 68-90 as being obvious over Radia in view of Wong '727, and further in view of APA.

3. Whether He, Zenchelsky, Fortinksy and APA, alone or in combination, disclose or render obvious "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

        Claims, 40-43 as being obvious over He, Zenchelsky, and APA; and

        Claims 40-43 as being obvious over He, Zenchelsky, Fortinksy and APA.

4. Whether Coss is prior art citable against the '118 Patent in view of the Declarations of the Inventors under 37 CFR §1.131.

5. If Coss is properly citable prior art against the '118 Patent, whether Coss in view of APA renders obvious "the redirection server...configured to allow automated modification of...the rule set correlated to the temporarily assigned network address." The rejections under this issue include:

        Claims 16-24, 26, 27, 36-43 and 68-90 as being obvious over Coss in view of APA.

(vii) <u>Argument</u>

I.   Rejection of Claims 16-18, 23, 24, 26, 27, 36-43, 68-71, 76-84, 86-90 (modification of rule set) as being obvious over Willens in view of RFC2138 and Stockwell/Admitted Prior Art

    A. Explanation of System Claims 16-18, 23, 24, 36-39, 68-71, 76-82

Each of the above claims includes the limitation "*redirection server is configured (i.e., programmed) to allow automated modification of...the rule set correlated to the temporarily assigned network address (TANA).*" See, e.g., the '118 Patent, Claim 16, paragraph 3. Modification of any rule set that is <u>not</u> correlated to the TANA does <u>not</u> meet this explicit requirement of the above system claims. Modification of any rule set not programmed in the redirection server also would <u>not</u> meet the requirement of the above system claims. In short, the claims explicitly require that modification occurs only to a rule set programmed in the redirection server that is correlated with a TANA.

In its response to the first Office Action and to the ACP, Patent Owner argued that modification to the rule <u>must</u> occur during a "user session." The Examiner acknowledged that the claims recite that a rule set be correlated to a temporarily assigned network address (RAN at page 5), but then took the invalid position that, since the claims do not recite the actual word "session," the shorthand term "session" used by Patent Owner in its response to the Office Action and the ACP improperly attempted to import the "session" limitation into the claims (and somehow in contravention of *In re Yamamoto*, 740 F.2d 1389 (CCPA 1974)).

However, Patent Owner's use of "session" was only a shorter and quicker way to refer to the explicit and unabridged claim language that the "*redirection server be programmed with a user's rule*

set correlated with a temporarily assigned network address (TANA)," and therefore, Patent Owner does not add any limitations that the claim language itself does not require. Furthermore, by focusing on Patent Owner's use of the term "session," the Examiner appears to have missed the point of Patent Owner's position. For modification of a rule set to occur, the rule set <u>must</u> first be programmed in the redirection server and second <u>must</u> be correlated with a TANA. As will be discussed hereinafter in greater detail, none of the references, alone or in combination, recite modification of a rule set correlated with a TANA that is programmed in a redirection server that processes data passing between the network and the user computer to which the TANA has been assigned. The invention as recited in the limitations of the claims is explicit enough. For modification of the rule set to occur, no bigger point has been missed by the Examiner than that requiring that the rule set programmed into the redirection server be correlated with the TANA for that user. Therefore, contrary to the Examiner's position, Patent Owner's use of a shorthand term like "session" does not add or import any limitation or anything else into the claims that is not already there. To try to make the point that modification could only occur during a TANA (an acronym also used as a shorthand term) indicates that use of the term "session" as a quicker way to express what the claims already actually explicitly and fully say <u>does not read any limitation from the specification into the claims, as asserted by the Examiner</u> (RAN page 5).

For all of these reasons, *In re Yamamoto* does <u>not</u> provide any basis for rejection merely by the use of the term "session."

B. Interpretation of Method Claims 26, 40-43 and 83-90

Method claims 26 and 40-43, dependent from claim 25, and method claims 83-90 each require the step of "*modifying...the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server....*" See, e.g., [25.4] and [83.5]. The interpretation of these claims is essentially the same as for the language used in the system claims above. Specifically, modification only occurs to a rule set in the redirection server and only while the rule set remains correlated to the TANA.

C. User's Rule Set Correlated With a Temporarily Assigned Network Address - Willens

The rejection of the above-identified method and system claims is based on a flawed understanding and application of Willens. For example, the Examiner asserts that Willens teaches a "*user's rule set correlated with a temporarily assigned network address*" as in the '118 Patent. In

support of that position, the Examiner states that Willens discloses a "communications server [14] (redirection server) that stores recently used portions of a PTA list and that the rule set (PTA list) is therefore correlated to a temporarily assigned network address (cache)." See RAN, page 5. However, *the "PTA list" is not a "rule set."* Rather, the PTA list is a specific example of a list of web sites, i.e., a "site list." The site list according to Willens has no associated control functionality. See Willens, Figure 3.[1] However, the '118 Patent requires that a rule set include "*a plurality of functions used to control...*" See, e.g., claim [16.2].

Willens at 5:64-6:9, cited by the Examiner, also does not support the Examiner's analysis or rejection. The following annotation of that section demonstrates that the site list is not a rule set as defined by the '118 Patent claims:

> The server 14 looks at each underline filter rule found in "F(Timmy)" starting from the top. When it reaches the rule permit "PTA List," the server 14 looks into its local cache 50 to see if *www.playboy.com* is on the "*PTA List*". If not, the server 14 sends a filter look-up request to the server 18. This look-up contains the list name…and the site Timmy [the user] is trying to access. Based on the result, server 14 either permits or denies access [to that site] and updates the local cache 50. (underline and italic emphasis)

The Examiner maintains that, because the *PTA List* may be stored in the cache, it is "correlated to a temporarily assigned network address (cache)." However, the cache does not have an associated TANA (as, e.g., claims 16-23 and 36-39 in the '118 Patent have, "...a redirection server programmed with a user's rule set correlated to a temporarily assigned network address..."). Obviously, there can be no "correlation" with something that does not exist. Further, neither Willens nor the Examiner provides any support for the Examiner's assertion. In fact, the Examiner's assertion actually contradicts the teaching of Willens. For example, the *site list* as taught by Willens does not "control" anything (as the rule set in, e.g., claims 16-23 and 36-39 in the '118 Patent is required to do, "...rule set contains at least one of a plurality of functions used to control data passing between the user and a public network"), and therefore cannot be "programmed" into the communications server 14 (as the rule set in, e.g., claims 16-23 and 36-39 in the '118 Patent is required to be, "...a redirection server programmed with a user's rule set...") in order to control communication between the user and the network, as required by the '118 Patent claims (e.g., in claims 16-23 and 36-39, "...rule set contains at least one of a plurality of functions used to control data passing between the user and a public network"). Also, the *site list* cannot be correlated with a TANA and still be available to multiple users and over multiple

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[1] Compare "SITE LIST" in server 18 and memory 52 with "FILTERS" in server 18 and memory 54. The "site list" of the ChoiceNet Server 18 in Figure 3 is simply a list of web sites without any associated control function.

sessions each having a different TANA. Finally, the correlation recited in the '118 Patent is the rule set correlated with a TANA assigned to a user computer that is programmed in a redirection server (as the rule set in, e.g., claims 16-23 and 36-39 of the '118 Patent is required to be, "...a redirection server programmed with a user's rule set correlated to a temporarily assigned network address..."), it is not correlation between a *site list* and a TANA, something that in any event is not even taught by Willens.

D. Automated Modification of Rule Set

The Examiner also rejects the claims on the assertion that the claimed modification of the rule set correlated with a TANA is taught by Willens. Specifically, the Examiner (RAN at page 9) states that the "claims require the redirection server to allow modification of the rule set, which is taught by Willens." For this proposition, the Examiner cites Willens 4:40-45, which actually only states, "Finally, instead of trying to maintain an unwieldy list of deny keywords on every desktop, the subsystem 12 provides a central, server based *permit list* that can be easily updated on a daily or hourly basis, and that cannot be tampered with by the end users" (emphasis added). However, as above discussed in detail, Willens teaches the updating of the *permit list,* which is not a filter (rule set) correlated with a TANA programmed in the communications server, as the claims in the '118 Patent require (e.g., in claims 16-23 and 36-39, "...a redirection server programmed with a user's rule set correlated to a temporarily assigned network address...").

The Examiner further relies on Willens 5:9-46 for the allegation that Willens teaches modification in the redirection server of a rule set correlated with a TANA. However, the section in Willens actually teaches the opposite -- that the rule set in the communication server is not modified during a user "session," but once downloaded, *"is maintained in the server 14 memory for the rest of the user 22's session."* See, Willens 4:19-26. The only modification that is taught by Willens is modification of the underlined *site list*, not the filters. For example, Willens at 4:41-46 states:

> The [ChoiceNet server 18] software also automatically maintains the *permit list* by
> downloading updated versions of the *list* over the internet and compiling the *list* for
> use by the client software 42 [i.e., the filter programmed in the server 14]. As a result
> of this self-maintenance capability, the server 18 [not the "communications server"
> 14] requires minimal administrative attention. (list terminology in italics added)

Willens therefore unambiguously teaches that the only automatic modification done is the modification of the *site list*, not the rule set, that the *site list* modification occurs at any time and regardless of correlation to a TANA (particularly since there is no correlation of the site list to a TANA in Willens), and the modification occurs in the ChoiceNet Server 18 and not in the communications server 14.

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Accordingly, Willens does not teach "automated modification of…the rule set correlated to the TANA programmed in the redirection server," as required by the claims of the '118 Patent. The rejection of the claims of the '118 Patent reciting modification of the rule set based on any teachings of Willens must therefore be overturned.

E. Non-Obviousness Over Willens in View of Stockwell

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84 and 86-90 (all related to modification of the rule set) were rejected as obvious over Willens in view of Stockwell. Willens was cited for its teaching related to modification of the rule set as claimed in the '118 Patent (see Section I(D) above), and Stockwell was cited solely for its teaching of redirection because Willens did not explicitly teach redirection.

The Examiner, disregarding the above arguments and failing to apply the non-obviousness analysis required by *Graham v. John Deer*, interposed an inapplicable, *pro forma* MPEP rejection that "one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references," citing *In re Keller*, 642 F.2d 413 (CCPA 1981). See RAN, page 10.

However, application of a proper *Graham v. John Deer* analysis demonstrates non-obviousness of the '118 Patent claims related to modification of the rule set. As to the scope and content of the prior art, Willens relates to content monitoring and user authorization for a user Internet access system, and Stockwell relates to a system and method for controlling the flow of Internet connections through a firewall. The differences between the claimed invention in the '118 Patent -- redirection server allowed modification of a rule set correlated to a TANA programmed in the redirection server -- and the Willens reference have been described in Section I(D) above. Stockwell says nothing about "redirection server [allowed] modification of a rule set correlated to a TANA programmed in the redirection server." This fact is at least implicitly conceded because Stockwell was cited by the Examiner exclusively for its teaching of redirection. While Willens, Stockwell and the '118 Patent may be in the same field, the above discussion demonstrates that the rule set modification limitations of the '118 Patent are not taught or suggested by Willens, and are certainly not taught or suggested by Stockwell. Willens simply does not disclose or suggest, whether alone or in combination with Stockwell, modification of a rule set correlated with a TANA programmed in the redirection server, and the Examiner has provided no objective rationale as to why those differences would be obvious to one skilled in the art without a clear teaching of such in any prior art references. Accordingly, as to the above patentable differences, the above claims pass the *Graham v. John Deere* test for non-obviousness, and the Examiner's disregard of

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the differences between these claims of the '118 Patent and Willens, taken alone or together with

Stockwell, in reliance on *In re Keller*, is clearly in error.

II. **Rejection of Claims 16-24, 26-27, 36-43, 68-90 as being obvious over Radia in view of Wong '727 and Stockwell/APA and further in view of Wong '178.**

A. **RAN, Pages 11-12 - "is configured to allow modification"**

Radia[2] teaches exchanging one filter for another through the reconfiguration of a

router/modem by the ANCS in response to events (logging in, logging out, or connecting a client

system), all of which are extrinsic to the router/modem and the filter programmed in the

router/modem.

By contrast, the redirection server of the '118 Patent is "configured to allow modification" as

recited in claims 16-23, 36-39 and 68-82. By "allowing," (i.e., "permitting") modification, the

redirection server is nevertheless a required component for the function of modification of the rule set

correlated with a TANA to occur. Without the redirection server, modification of the rule set correlated

with a TANA would not occur.

The Examiner proposes a different interpretation: that "allowing" modification means that

something other than the redirection server can be the sole cause of modification of the rule set, and

the redirection server is not required for the modification to occur. Radia teaches a router or modem

in which the filter is configured where the filter can be *removed and replaced* by the extrinsic action

of the ANCS without any involvement or participation by the router/modem. Radia does not teach

modifying a rule set in the router/modem without removing and replacing it. Further, Radia only

teaches that the ANCS, not the router/modem, replaces one filter with another filter by reconfiguring

the router/modem with a new rule from the SMS/ANCS based on a detected event. Nothing in Radia

teaches or suggests that the redirection server (router/modem) actually does or actively enables the

modification.

Therefore, the question is, which interpretation is correct? The Examiner's answer is that the

Examiner's interpretation is the broadest interpretation and that "during reexamination, claims are

given the broadest reasonable interpretation consistent with the specification…," citing *In re*

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[2] The Examiner correctly treats Radia, Wong '727 and Wong '178 as encompassing common teaching insofar as the '118 Patent is concerned and, accordingly, the rejection only refers to the teaching of Radia. Patent Owner adopts the same approach in referencing only Radia in its discussion of non-obviousness. Similarly, APA and Stockwell are cited for their teaching of redirection and are addressed collectively.

Yamamoto, 740 F.23d 1569 (Fed Cir. 1984). However, the Examiner's position is erroneous for the following reasons.

(1) Even if the Examiner's interpretation of "configured to allow modification" was correct, which it is not, only claims 16-23, 36-39 and 68-82 include that language. The remaining "rule set modification" claims 24, 26, 40-43 and 83-90 recite different language that <u>requires</u> that the redirection server do the modifying of the rule set while it is correlated with a TANA. Claim 24 recites "*instructions to the <u>redirection server to modify the rule set</u>…,*" and claims 26, 40-43 and 83-90 each recite "*receiving instructions by the <u>redirection server to modify the rule set</u>….*" Each of these claims requires that instructions be given to the redirection server and are simply not amenable to the Examiner's expansive interpretation. Therefore, as to these claims, the only interpretation possible (and hence, the "broadest reasonable interpretation") consistent with the '118 Patent teachings is that the redirection server programmed with a rule set correlated with a TANA actually does the modification. The Examiner has failed to recognize or address this difference in language. The rejection of at least claims 24, 26, 40-43 and 83-90 must therefore be reversed because, as conceded at least implicitly by the Examiner, Radia does <u>not</u> teach or suggest that the router/modem in which the filter is configured actually effects modification of the rules set.

(2) The Examiner's interpretation of the phrase "*redirection server is configured to allow automated modification of…the rule set…*" in claims 16-23, 36-39 and 68-82 as not being supported by the specification as required by *In re Yamamoto* is clearly erroneous. The Examiner inaccurately interprets "allow" as modifying the "redirection server," that is, the redirection server allows or does not allow some extrinsic (unidentified) agent to modify the rules set. However, "allows" modifies "configured," <u>not</u> "redirection server." In other words, it is the configuration of the redirection server that "allows" the modifying. "Configured" is simply another way of saying "programmed." Therefore, the phrase "is configured to allow" means that the redirection server does the modifying under the control of the redirection server program programmed *in the redirection server.* This is consistent with the teaching of the '118 Patent. See, e.g., 3:15-20 ("The redirection server uses the filter…information to either allow…block, or modify…"), and 4:52-3 ("The redirection server performs *all* the central tasks of the system..."). See also, the '118 Patent at 5:39-44; '118 at 4:53-66 and '118 at 6:1-3.

Claim 24 likewise supports Patent Owner's interpretation. Specifically, claim 24, which is dependent on claim 23 and includes the "is configured to modify" language, actually provides the proper interpretation "wherein instructions to the redirection server to modify the rule set are received by…the redirection server…." In other words, regardless of the origin of the instructions to modify the rule set,

the instructions are sent to and received by the redirection server. The only possible way for modification of the rule set to occur if the instructions are received by the redirection server is for the redirection server to do the modification in response to the instructions. This is consistent with the teachings in the '118 Patent and Patent Owner's interpretation, and is contrary to the Examiner's interpretation.

(3) The only support cited for the Examiner's interpretation that something other than the redirection server modifies the rule set programmed in the redirection server is the '118 Patent at 8:3-11 quoted below. However, the Examiner takes that quote out of context and misreads that section:

> ...the web site then sends an *authorization* **[the web site sends authorization, i.e., permission...it does not *do* the act authorized]** to the *redirection server that deletes* the redirection to the questionnaire web sited from the rule set **[it is the redirection server that "deletes" the rule from the rule set...the web site does not delete anything]** for the user who successfully completed the questionnaire. ('118 Patent at 8:3-6, annotations bracketed in bold and italic emphasis added)

The next part of the quote expands solely on the *types of modification* that are possible for the redirection sever to do in the above example and cannot be interpreted as an alternative way of effecting modification of the rule se apart from the redirection server.

> Of course, the *type of modification* an outside server can make to the rule set on the redirection server is not limited to deleting a redirection rule **[this language refers to the action of "deleting a redirection rule" previously described as being done by the redirection server at 8:4 above]**, but can include any other *type of modification* to the rule set that is supported by the redirection server *as discussed above* **[this sentence clearly is intended to modify and amplify the example given above which describes a web site that "authorizes" and a redirection server that acts to delete]**. ('118 Patent at 8:6-10, bracketed annotations in bold and italic emphasis added)

For the above reasons, Patent Owner respectfully requests that the Board reverse the rejections of the claims which include the requirement that the redirection server modify the rule set.

B. RAN, Pages 12-13 – Router And ANCS Function As The Redirection Server

The Examiner took the position in the ACP that the router and ANCS together function as the redirection server claimed in the '118 Patent. However, combining the ANCS and router of Radia would be equivalent to combining the authentication server and the redirection server of the '118 Patent to create the redirection server. This makes no sense. The authentication server, like the ANCS, has separate and necessary functionality different and independent from the redirection server

as delineated in the claims, just as the ANCS is separate and distinct in functionality from the router. Thus, Radia teaches that once a client system connection has been accepted, the ANCS establishes a packet filter for IP packets originating from a newly-connected client system, and that ANCS then uses the packet filter to configure the router and that the router then processes data packets passing between the client system and the network (Radia '233 9:17-19, 21-25, and 29-32). The ANCS never processes data packets just sa the authentication service does not process data packets. Once a user computer has been authenticated, the authentication server of the '118 Patent creates a rule set correlated to the TANA of the user computer and then programs that correlated rule set into the redirection server where the redirection server processes data packets passing between the user computer and the network -- the same function as the router.

Furthermore, Radia does not teach or suggest that the filter (whether a login filter or an IP packet filter after login) configured in the router/modem causes or controls *modification* of the filter configured in the router without the ANCS. Indeed, Radia only teaches creation and configuration (but not modification) of filters in the router/modem by the ANCS. If a filter has outlived its usefulness to process data packets, the ANCS creates a new filter and configures the new filter in the router/modem. Radia does not teach or suggest that the router or IP packet filter configured in the router modify the IP packet filter while it is correlated with a temporarily assigned network address.

The Examiner has nevertheless maintained the rejection, asserting that "the claims do not require the redirection server to do the modification, but to 'allow automated modification of a least a portion of the rule set.'" See RAN, page 13. However, as discussed in Section II(A) above, the only interpretation of the limitation "allow automated modification of the rule set" that is consistent with the specification and claims in the '118 Patent, i.e., that is taught and claimed in the '118 Patent alone, is that the redirection server modifies the rule set. Any other interpretation would be inconsistent with the teachings of, and the invention claimed in, the '118 Patent, and would therefore be an improper interpretation under *In re Yamamoto*, which requires that a claim interpretation "*must be consistent with the specification.*"

Patent Owner respectfully requests that the Examiner's rejection on these grounds be reversed.

C. RAN, Page 13 – Combining Radia and Stockwell

Patent Owner refers to and incorporates by reference the arguments against combining Stockwell and Willens above as being equally applicable to the rejection of the above identified

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claims. Specifically, Stockwell was cited solely for its teaching related to redirection not taught by Radia, and Radia was cited solely for its teaching related to configurations of filters in the router/modem by the ANCS not taught by Stockwell.

As with the rejection based on the combination of Willens and Stockwell above, the redirection of Stockwell bears no relationship to the modification arguments that distinguish Radia from the '118 Patent. As with Willens and Stockwell, the Examiner failed to do the non-obviousness analysis required by *Graham v. John Deer*, and instead interposed an inapplicable, *pro forma* MPEP rejection that "one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references," citing *In re Keller,* 642 F.2d 413 (CCPA 1981). See RAN, page 13. However, the *Keller* form rejection from the MPEP is inapplicable because patentability based on modification of a rule set has nothing to do with the redirection for which Stockwell was cited, and Stockwell includes no teaching related to modification of a rule set as claimed in the '118 Patent. Accordingly, combining Stockwell with Radia may result in a combination that includes redirection, but any such combination still would not disclose or even suggest the modification by the redirection server of a rule set correlated with a TANA programmed in a redirection server. It is perfectly proper, as was done here, to point out that a particular reference relied upon to teach a feature as part of combining teachings in a Section 103 rejection does not, in fact, teach the subject matter relied upon by the Examiner in that rejection.

By contrast, application of a proper *Graham v. John Deer* analysis demonstrates the non-obviousness of the claims of the '118 Patent. As to the scope and content of the prior art, Radia relates to a method and apparatus that allows IP packets within a network to be selectively filtered based on events within the network. Stockwell relates to a system and method for controlling the flow of internet connections through a firewall. The differences between the claimed invention in the '118 Patent -- redirection server allowed modification of a rule set correlated to a TANA programmed in the redirection server -- and Radia have been described in detail above. Stockwell says nothing about a "redirection server allowed modification of a rule set correlated to a TANA programmed in the redirection server." This must be conceded by the Office, since Stockwell has been cited exclusively for its teaching of redirection. The above discussion of the differences between the novel invention claimed in the '118 Patent and Radia, and the novel invention claimed in the '118 Patent and Stockwell, demonstrate that neither of the cited references, whether alone or in any combination, disclose or suggest modification by the redirection server of a rule set correlated with a TANA programmed in the redirection server. The Examiner has provided no objective rationale why that difference would be

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obvious to one skilled in the art. Accordingly, as to the above patentable differences, the claims of the '118 Patent pass the Graham v. John Deere test for non-obviousness, and the Examiner's disregard of the differences between the claimed invention and Radia, and the claimed invention and Stockwell, in reliance on *In re Keller*, is in error.

In view of the above arguments, Patent Owner respectfully requests that the rejections of claims 16-24, 26-27, 36-43 and 68-90 as obvious in view of Radia/Wong and/or obvious in view of Stockwell/APA be reversed.

III. Rejection of Claims 40-43 as Being Obvious over He, Zenchelsky, Fortinsky and Admitted Prior Art

The Examiner previously withdrew the obviousness rejection of claims 16-24, 26, 27, 36-39, 68-82 and 84-85 over He, Zenchelsky, APA and Fortinsky (see ACP, pages 34-35), but maintained the rejection of claims 40-43, 83 and 86-90 (all of which include the limitation of modifying the rule set). However, in the RAN, the Examiner agreed with Patent Owner's response to the ACP and withdrew the rejection of claims 83 and 86-90 (see RAN, page 17), but continued to maintain the rejection of claims 40-43. Patent Owner submits that the rejection of claims 40-43 based on these references also should also have been withdrawn.

The basis for the Examiner's withdrawal of the rejection regarding claims 16-24, 26, 27, 36-39, 68-82 and 84-85 was that none of the cited references teach automated modification of at least a portion of the rule set. However, claims 40-43 include this same limitation. To illustrate, each of claims 40-43 is dependent on claim 25, which includes the limitation in ¶[25.7]: "the method further includes the step of receiving instructions by the redirection server *to modify at least a portion of the user's rule set....*" Furthermore, each of claims 40-43 includes an additional limitation for the modified rule set as set out in claim 25: "The method of claim 25, wherein the *modified rule set includes....*" Because the same reasons given by the Examiner for allowance of claims 16-24, 26, 27, 36-39, 68-82 and 84-85 apply to claims 40-43, the rejection of claims 40-43 is without merit and should be reversed.

IV. Rejection of Claims 16-24, 26, 27, 36-43 and 68-90 as Being Obvious Over Coss in View of Admitted Prior Art.

A. Coss is not citable as prior art: Declarations of Inventors under 37 C.F.R. §1.131.

In the RAN, at page 17, in a section entitled "Declaration under 37 CFR1.131," the Examiner states:

The Declarations filed on June 28, 2013 from Moon Tai Yeung and Koichiro Ikudome have been considered, but are ineffective to overcome the Coss reference.[3] The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of Silverman [sic, should be Coss] reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See Mergenthaler v. Scudder, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

This position is clearly erroneous, because the record contains Declarations Under 37 CFR §1.131 by each of Inventors Yeung and Ikudome that state unequivocally that they *actually demonstrated* the concept of their invention prior to mid-August 1997. As set forth in the Ikudome Declaration, when the Examiner maintained the rejection in the April 29, 2013 ACP, Inventor Ikudome undertook a detailed investigation of his records, and discovered not only receipts for the purchase of equipment acquired for the purpose of **testing** the invention concept, but also located a document dated August 14, 1997 which was submitted with his 37 C.F.R. §1.131 Declaration which showed that the invention was **actually reduced to practice before the Coss filing date**.

The individual Declaration of Moon Tai Yeung further references copies of invoices showing hardware purchased throughout the month of May 1997, and a Technical Innovation Report dated August 14, 1997 memorializing the actual reduction to practice prior to August 14, 1997. The Declaration of Koichiro Ikudome also references those documents, and further references pages 238-239 of a videotaped Deposition taken on March 4, 2010. **Therefore, the documents attached to the respective 37 C.F.R. § 1.131 Declarations of the joint Inventors clearly establish both conception and actual reduction to practice of the invention disclosed and claimed in the '118 Patent prior to the earliest effective filing date of Coss.**

In addition, the Examiner has overlooked the fact that, in the earlier *ex parte* Reexamination Proceeding 90/009,301 for the '118 Patent, the Primary Examiner held that Provisional Application No. 60/084,014 filed May 4, 1998 (the '014 Application) clearly supports the disclosure in the '118 Patent. More particularly, the Examiner makes that statement in an Order granting *ex parte* Reexamination in Control No. 90/009,301, which Reexamination resulted in confirmation of all but four claims and the addition of fifty-some new claims held patentable. Indeed, the August 14, 1997

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[3] The Examiner's continued reliance on Coss as a valid prior art reference was subject to a Petition filed on September 27, 2013. The Director of the CRU held in a Decision dated November 18, 2013 that this dispute is an appealable issue rather than a petitionable issue. Hence, these issues are now raised in this Appeal.

Technical Innovation Report that was attached to each of the two 37 C.F.R §1.131 Declarations is essentially identical to the disclosure of the '014 Application.

Accordingly, the August 14, 1997 Technical Innovation Report contains a description of the invention disclosed and claimed in the '118 Patent which is the subject of the present merged Reexamination Proceedings. The Examiner has improperly refused to permit antedating of a reference used in rejecting the claims on the basis of (1) improper lack of showing of diligence between the dates of conception and reduction to practice; and (2) improper lack of showing of a nexus between the claimed subject matter and the reduced to practice documentation. However, where the 37 C.F.R §1.131 Declarations demonstrate actual reduction to practice before the filing date of the cited reference, as is the case here, a showing of diligence is unnecessary. Patent Owner respectfully requests that the Board overturn the Examiner's improper holding and improper application of Coss as prior art.

The 37 C.F.R. §1.131 Declarations of the Inventors have not been given the consideration that they should have been given by the Examiner, since (1) they are necessary to eliminate Coss as prior art and (2) they could not have been presented earlier than when filed because the Inventors did not have a recollection of all of the evidence establishing the actual reduction to practice before the Coss filing date until after the mailing of the ACP.

B. Coss Does Not Teach Redirection Server Automated Modification Of At Least A Portion Of A Rule Set Correlated With TANA Programmed In Redirection Server

The rejected claims each require that the redirection server be configured to allow automated modification of the rule set correlated to the TANA by the redirection server into which the rule set is programmed. Even if Coss were to be considered as prior art, which it properly is not, Coss does not teach that a redirection server be configured to allow automated modification of the rule set correlated to the TANA, as taught in, e.g., claims 16-23 and 36-39 of the '118 Patent ("...wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address..." (Col. 5, lines 12-44). Indeed, the Coss rule set is shared across multiple users (Coss 1:63-67) with the rule set for a specific user session stored as a "session key" derived from a User ID in the packet header after approval by security policies (Coss 6:28). Coss does not teach or suggest a correlation between a user's rule set and a TANA for that user's computer.

Further, the Examiner continues to equate the "dynamic" rules of Coss with the automated modification of at least a portion of the rule set correlated to the temporarily assigned network

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address, as recited in, e.g., claims 16-23 and 36-39 of the '118 Patent ("...wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address..." (Col. 5, lines 12-44). In the '118 Patent, the modification of the rule set as described above in detail is done by the redirection server, and only when a rule set correlated to a TANA is programmed in the redirection server. The firewall of Coss does not operate the same way. See, e.g., "Request for *ex parte* Reexamination" at page 343 of 484, where the Requester concedes that: "Coss et al. **do not explicitly disclose** [that] the firewall 211 is configured to allow automated modification of a least a portion of the rule set correlated to the *temporarily assigned* network address" (emphasis added).

Even if Coss were properly prior art, any combination of APA with Coss still does not render claims 16-24, 26, 27, 36-43 and 68-90 obvious under *Graham v. John Deere* for the same reasons set above in Section II.1.C.

Conclusion

Appellant respectfully requests a reversal of all of the Examiner's rejections of the claims on appeal, and confirmation of all claims.

Appellant also respectfully requests a reversal of the Examiner's improper handling of the Inventor Declarations Under 37 CFR §1.131, and withdrawal of improper prior art Coss.

Appellant further respectfully requests remand to the Examiner for issuance of a Notice of Intent to Issue a Reexamination Certificate (NIIRC) of all the claims on appeal.

Evidence of service of this Appellant Brief on third party requester is attached hereto.

Please direct any questions to the undersigned at the below-listed telephone number.

Respectfully submitted,
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Appendices: (viii) Claims Appendix
               (ix) Evidence Appendix
               (x) Related Proceedings Appendix

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(viii) Claims Appendix

1. (Cancelled)

2. The system of claim 1, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

3. The system of claim 1, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

4. The system of claim 1, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

5. The system of claim 1, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

6. The system of claim 1, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

7. The system of claim 1, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

8. (Cancelled)

9. The method of claim 8, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

10. The method of claim 8, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

11. The method of claim 8, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

12. The method of claim 8, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

13. The method of claim 8, further including the step of redirecting the data from the users' computers to multiple destinations a function of the individualized rule set.

14. The method of claim 8, further including the step of creating database entries for a plurality of the plurality of users' IDs, the plurality of users' ID further being correlated with a common individualized rule set.

15. (Cancelled)

16.   A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time.

17.   A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

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wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the data transmitted to or from the user.

18. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the location or locations the user accesses.

19. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of time.

20. A system comprising:

    a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

    wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

    wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the data transmitted to or from the user.

21. A system comprising:

    a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

    wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

    wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

    wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the location or locations the user accesses.

22. A system comprising:

    a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

    wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

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wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location or locations the user accesses.

23. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to a computer network and wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server.

24. The system of claim 23 wherein instructions to the redirection server to modify the rule set are received by one or more of the user side of the redirection server and the network side of the redirection server.

25. (Cancelled)

26. The method of claim 25, further including the step of modifying at least a portion of the user's rule set as a function of one or more of: time, data transmitted to or from the user, and location or locations the user accesses.

27. The method of claim 25, further including the step of removing or reinstating at least a portion of the user's rule set as a function of one or more of: time, the data transmitted to or from the user and a location or locations the user accesses.

28. The system of claim 1, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

29. The system of claim 1, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

30. The system of claim 1, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

31. The system of claim 1, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

32. The method of claim 8, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

33. The method of claim 8, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

34. The method of claim 8, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

35. The method of claim 8, wherein the individualized rule set includes at least one rule redirecting the data to a new 20 destination address based on a request type and an attempted destination address.

36. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

37. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

38. A system comprising:

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a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

39. A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

40. The method of claim 25, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

41. The method of claim 25, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

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42. The method of claim 25, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

43. The method of claim 25, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

44. A system comprising:

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

a dial-up network server that receives user IDs from users' computers;

a redirection server connected between the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection server;

wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server;

wherein the authentication accounting server accesses the database and communicates the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server; and

wherein data directed toward the public network from the one of the users' computers are processed by the redirection server according to the individualized rule set.

45. The system of claim 44, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

46. The system of claim 44, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

47. The system of claim 44, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

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48. The system of claim 44, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

49. The system of claim 44, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

50. The system of claim 44, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

51. The system of claim 44, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

52. The system of claim 44, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

53. The system of claim 44, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

54. The system of claim 44, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

55. The system of claim 44, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

56. In a system comprising a database with entries correlating each of a plurality of user IDs with an individualized rule set; a dial-up network server that receives user IDs from users' computers; a redirection server connected between the dial-up network server and a public network, and an authentication accounting server connected to the database, the dial-up network server and the redirection servers, a method comprising the steps of:

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communicating a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID from the dial-up network server to the authentication accounting server;

communicating the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server from the authentication accounting server; and

processing data directed toward the public network from the one of the users' computers according to the individualized rule set.

57. The method of claim 56, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

58. The method of claim 56, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

59. The method of claim 56, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

60. The method of claim 56, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

61. The method of claim 56, further including the step of redirecting the data from the users' computers to multiple destinations a function of the individualized rule set.

62. The method of claim 56, further including the step of creating database entries for a plurality of the plurality of users' IDs, the plurality of users' ID further being correlated with a common individualized rule set.

63. The method of claim 56, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

64. The method of claim 56, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

65. The method of claim 56, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

66. The method of claim 56, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

67. The method of claim 56, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

68. A system comprising:

a redirection server connected between a user computer and a public network, the redirection server programmed with a users' rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address; and

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses.

69. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time.

70. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the data transmitted to or from the user.

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71. The system of claim 68, wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of the location or locations the user accesses.

72. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of time.

73. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the data transmitted to or from the user.

74. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of the location or locations the user accesses.

75. The system of claim 68, wherein the redirection server is configured to allow the removal or reinstatement of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location or locations the user accesses.

76. The system of claim 68, wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to a computer network and wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server.

77. The system of claim 68 wherein instructions to the redirection server to modify the rule set are received by one or more of the user side of the redirection server and the network side of the redirection server.

78. The system of claim 68, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

79. The system of claim 68, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

80. The system of claim 68, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

81. The system of claim 68, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

82. The system of claim 68, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the modified rule set.

83. In a system comprising a redirection server connected between a user computer and a public network, the redirection server containing a user's rule set correlated to a temporarily assigned network address wherein the user's rule set contains at least one of a plurality of functions used to control data passing between the user and a public network; a method comprising the step of:

    modifying at least a portion of the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server; and

    wherein the redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network address and a network side connected to a computer network; and

    wherein the computer using the temporarily assigned network address is connected to the computer network through the redirection server and the method further includes the step of receiving instructions by the redirection server to modify at least a portion of the user's rule set through one or more of the user side of the redirection server and the network side of the redirection server.

84. The method of claim 83, further including the step of modifying at least a portion of the user's rule set as a function of one or more of time, data transmitted to or from the user, and location or locations the user accesses.

85. The method of claim 83, further including the step of removing or reinstating at least a portion of the user's rule set as a function of one or more of time, the data transmitted to or from the user and a location or locations the user accesses.

86. The method of claim 83, wherein the modified rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

87. The method of claim 83, wherein the modified rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

88. The method of claim 83, wherein the modified rule set includes at least one rule allowing access based on a request type and a destination address.

89. The method of claim 83, wherein the modified rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

90. The method of claim 83, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

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(ix) Evidence Appendix

No evidence is being submitted.

(x) Related Proceedings Appendix

No related proceedings (other than the present merged Reexaminations) are noted.

(xi) Certificate of Service

      It is hereby certified that the attached Patent Owner's Appellant Brief (including Appendices) and a copy of this Certificate of Service **are being served on December 9, 2013 by first class mail** on third party requesters at third party requesters' addresses of record:

David L. McCombs
Haynes & Boone, LLP   [for *inter partes* Proceeding No. 95/002,035]
2323 Victory Avenue, Suite 700
Dallas, TX 75219

James J. Wong
2108 Gossamer Ave.   [for *ex parte* Proceeding No. 90/012,342]
Redwood City, CA 94065

_____/Abe Hershkovitz/_____
Abraham Hershkovitz

Electronic Acknowledgement Receipt

EFS ID:	17608628
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	09-DEC-2013
Filing Date:	08-JUN-2012
Time Stamp:	19:18:01
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D-A09_Transmittal.pdf	157814 dfc9c15a7291ece7662a16a7500b91e1f82e81f9	no	1

Warnings:

Information:

| 2 | | RI1341006F-R1341006D-A09_Appeal-Brief.pdf | 386385

 85f9b84d0e9cd54526b11606e363023d48b2c7c3 | yes | 40 |

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Appeal Brief-Owner	1	39
Reexam Certificate of Service	40	40

Warnings:

Information:

Total Files Size (in bytes):	544199

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.

<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.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

90/012,342
Q5|0030-55

40401   7590   11/18/2013
Hershkovitz & Associates, PLLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
11/18/2013	PAPER

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.

THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS

James J. Wong

2108 Gossamer Avenue

Redwood CIty, CA 94065

Date:
MAILED

NOV 1 8 2013

CENTRAL REEXAMINATION UNIT

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. : 90012342

PATENT NO. : 6779118

ART UNIT : 3993

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Hershkovitz & Associates   :   (For Patent Owner)
2845 Duke Street   :
Alexandria, VA 22314   :

David L. McCombs   :
Haunes & Boones, LLP   :   (For Third Party
2323 Victory Avenue   :   Requester)
Suite 700   :
Dallas, Texas 75219   :

James J. Wong   :
2108 Gossamer Avenue   :   (For Third Party
Redwood City, CA 94065   :   Requester)

In re: Ikudome et al.   :
Merged Reexamination Proceeding   :   DECISION ON PETITION
Control No.: 95/002,035 & 90/012,342 :   UNDER 37 CFR § 1.181
Filed: July 12, 2012 & June 8, 2012   :   1.181
For: U.S. Patent No.: 6,779,118   :

This is a decision on the petition filed by the Patent Owner on September 27, 2012, entitled "PETITION UNDER 37 CFR § 1.181 TO VACATE IMPROPER RIGHT OF APPEAL NOTICE," [hereinafter "the petition"]. Petitioner seeks supervisory review of the Examiner's determination that the evidence submitted by the Patent Owner is insufficient to overcome the rejections applied.

The petition is before the Director of the Central Reexamination Unit.

The petition is <u>dismissed</u>.

Review of Relevant Facts

- U.S. Patent No. 6,779,118 ["the '118 patent"] issued on August 17, 2004.

- A request for *inter partes* reexamination was filed July 12, 2012 and assigned control no. 95/002,035. Reexamination was requested of claims 2-7, 9-14, 16-24, and 26-90 of the '118 patent.

- In an order mailed October 19, 2012 ["Order"], the *inter partes* request was granted. In the first Office action on the merits mailed concurrently, all claims under reexamination were rejected.

- On January 17, 2013, the Patent Owner timely filed a response to the first Office action.

- On February 15, 2013, the Third Party Requester filed comments.

- On March 20, 2013, a decision merging the 95/002,035 and 90/012,342 proceedings was mailed.

- On April 29, 2013, an Action Closing Prosecution ("ACP") was mailed in the merged proceeding.

- On June 28, 2013, the Patent Owner filed a response to the ACP.

- On July 26, 2013 the Third Party Requester filed comments.

- On November 9, 2013, the Examiner issued a Right of Appeal Notice ("RAN").

- On November 27, 2013, the Patent Owner timely filed the instant petition.

Relevant Regulations and Procedures

37 CFR §1.181 Petition to the Director.

(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding *which is not subject to appeal to the Board of Patent Appeals and Interferences* or to the court;
(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions in interferences, see § 1.644. (emphasis added).

MPEP §1201 Appeal, Introduction

The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues , the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).

The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board. However, since 37 CFR 1.181(f) states that any petition not filed within 2 months from the action complained of may be dismissed as untimely and since 37 CFR 1.144 states that petitions from restriction requirements must be filed no later than appeal, petitionable matters will rarely be present in a case by the time it is before the Board for a decision. *In re Watkinson*, 900 F.2d 230, 14 USPQ2d 1407 (Fed. Cir. 1990).

Decision

Petitioner alleges that "the Examiner refused to permit antedating of a reference used in rejecting claims on the basis of (1) lack of showing of diligence between the dates of conception and

reduction to practice; and (2) lack of showing of a nexus between the claimed subject matter and the reduced to practice document". Petition at 4. According to the petitioner, "these are clear errors by the Examiner because (1) there is no requirement in the regulations for a showing of diligence where, as here, actual reduction to practice took place before the effective date of the reference []; and (2) the reduced to practice document is essentially identical to the disclosure of the provisional application which forms the basis of the '118 patent". Petition at 5.

All of petitioner's arguments pertain to the merits of the Examiner's rejections or determinations (e.g., whether the evidence is sufficient to establish prior inventorship). These issues are appealable matters and are not appropriate to address via a petition. See MPEP §§1201 and 1002. In other words, all these issues are subject to appeal to the Patent Trial and Appeal Board. Therefore, this petition cannot be deemed a proper petition under 37 CFR 1.181(a)(1).

Conclusion

1. The September 27, 2013 petition filed in the merged proceeding is **dismissed**.

2. Telephone inquiries related to this decision should be directed to Woo H. Choi, Supervisory Patent Examiner, at (571) 272-4179 or to Daniel Ryman, Supervisory Patent Examiner, at (571) 272-3152.

Irem Yucel

Director

Central Reexamination Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichio Ikudome	Art Unit 3992
Merged Reexam Proceeding No. 95/002,035 (Main)	Conf. No. 1745
and Reexam Proceeding No. 90/012,342	Conf. No. 5786
(Based on US 6,779,118 C1)	
	Examiner: Jalatee Worjloh
Filed: September 12, 2012 (Main) and June 8, 2012	

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

OPPOSITION TO PETITION TO STRIKE PATENT OWNER'S DECLARATIONS

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Patent Owner respectfully submits this opposition to third party requester's (TPR's) improper and groundless "petition" to strike Patent Owner's Declarations of record.

In response to the Action Closing Prosecution (ACP) mailed in the above-identified merged Proceedings by the Office on April 29, 2013, Patent Owner timely filed a Response, and submitted Declarations of the Inventors to present additional evidence requested by the Office to support Patent Owner's position that the reference to Coss is not proper prior art. Such Response and Declarations with Exhibits proving Coss is not prior art were correctly submitted within two months of the ACP on June 28, 2013. The Examiner properly considered the Declarations and Exhibits, and properly entered them into the record in these merged Proceedings.

TPR now petitions to have the Declarations and Exhibits striken from the record, without cause or support.

The first thing to consider is that the Primary Examiner in these merged Proceedings elected to enter and comment on Patent Owner's 37 C.F.R. §1.131 Declarations after the ACP and prior to issuance of a Right of Appeal Notice (RAN). That was the Primary Examiner's decision, and neither Patent Owner nor TPR had control over that decision.

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Consideration of those Declarations by the Primary Examiner made the Declarations part of the record. Accordingly, there is no basis for striking those Declarations. The fact that Patent Owner has taken the substantive position that the Declarations in fact antedate the Coss reference because they establish a prior reduction to practice at a date earlier than the effective filing date of Coss does not bear on whether the Primary Examiner violated any procedural guideline by entering the Section 1.131 Declarations. That TPR now belatedly takes the position that "apparently" Patent Owner deliberately chose not to file the Declarations until after the ACP does not somehow destroy those Declarations as evidence that should be and have been treated by the Primary Examiner, and are of record.

Patent Owner has pointed out, in Patent Owner's September 27, 2013 Petition to Vacate the Right of Appeal Notice (RAN) that the Primary Examiner has not correctly assessed the Rule 131 Declarations. However, that does not somehow trigger any right for TPR to now, belatedly, argue that the record "suggests" that Patent Owner "apparently" knew of evidence that could be cast in the form of Section 1.131 Declarations and filed to successfully obviate all standing rejections in these Proceedings, but "deliberately chose" to delay filing those Declarations. That Patent Owner was "prepared to file Affidavits" after the first Office Action in the *ex parte* Reexamination Proceeding prior to the merger of that Proceeding with the present *inter partes* Reexamination Proceeding does not indicate any intent on Patent Owner's part to conceal evidence which, after all, actually benefits Patent Owner's position in the present merged Proceedings by demonstrating reduction to practice of the claimed invention prior to the earliest effective filing date for the Coss patent. Indeed, the record shows that the Coss reference was cited in the *inter partes* Reexamination Proceeding only after merger of the *ex parte* and *inter partes* Reexamination Proceedings.

Secondly, it would not be proper to argue that merger of these *ex parte* and *inter partes* Reexamination Proceedings was improper. The merger is purely discretionary with the Office, as 37 C.F.R §1.989 provides that the Office may issue a Decision merging Reexamination Proceedings at its discretion. The language of the rule is that "a decision may be made to merge the two proceedings or to suspend one of the proceedings" (that language appears in 37 C.F.R. §1.989(a); subsection (b) of the rule provides for merger of *inter partes* and *ex parte* Reexamination Proceedings, as in the present case). Further, it should be noted that MPEP §2686.01(I) provides that, "[w]here a second request for reexamination is filed and reexamination is ordered, and a first reexamination proceeding is pending, the proceedings will be merged where the Office (in its discretion) deems it

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appropriate to do so, to facilitate the orderly handling of the proceedings." However, a decision not to merge is within the sole discretion of the Office to facilitate/carry out the statutory mandate of 35 U.S.C. §314(c) to conduct Reexamination Proceedings with "special dispatch." The Primary Examiner in merged *inter partes/ex parte* Reexamination Proceedings certainly has the right to use prior art from the earlier-filed *ex parte* Reexamination in the merged Proceedings to form rejections in the records of both the *inter partes* and *ex parte* Reexamination components of the merged Proceedings.

Finally, it is certain that TPR had <u>already</u> included, at pages 17-20 of its comments on the timely-filed Patent Owner's Response to the ACP and Declarations/Exhibits, not only precisely the same arguments that it now again tries to make in its October 4, 2013 petition, but also has already made arguments against the contents of the Declarations themselves, which arguments are strangely entirely lacking in the petition to strike them. Attached is a column comparison of TPR's comments on Patent Owner's Response to the ACP and TPR's petition to strike Patent Owner's Declarations. The contents of the petition to strike are enumerated alongside the contents of TPR's comments on Patent Owner's Response to the ACP.

It also should be noted that TPR's petition is now addressed to the Director of the CRU, since TPR apparently considers this to be only the issue of entry of the Declarations and, as such, holds that it is merely "one of compliance with Patent Office procedure, it is not subject to appeal to the Patent Trial and Appeal Board."

However TPR attempts to justify filing the petition at this point [within one month of the mailing date of the RAN, since it is first in the RAN that it is stated that Patent Owner's Declarations have been accepted, made of record and considered by the Examiner], TPR's petition nevertheless remains improper and without grounds, no matter when it is filed, because it is merely a refabrication of what is already in the substantive record, and again presents precisely the same aruguments that have already been made by TPR in TPR's comments on Patent Owner's Response to the ACP, which have already have been considered by the Primary Examiner, and have <u>not</u> been adopted.

Therefore, Patent Owner respectfully requests that TPR's petition be expunged and not considered.

Evidence of service of this Opposition on TPR appears on the last page of this Opposition and before the attached Columns.

The Office is invited to direct any questions or comments regarding this matter to the undersigned practitioner at the below-listed e-mail address, and telephone and facsimile numbers.

Respectfully submitted,
Linksmart Wireless Technology, L.L.C.

_____/Abe Hershkovitz/_____
Abraham Hershkovitz
Reg. No. 45,294

Stephen Marcus
Reg. No. 64,075

Attachment: Comparison of TPR's petition and
TPR's comments on Patent Owner's
Response to ACP

Date:_ November 4, 2013_

HERSHKOVITZ & ASSOCIATES, PLLC
2845 Duke Street
Alexandria, VA 22314
TEL: (703) 370-4800
FAX: (703) 370-4809
E-MAIL: patent@hershkovitz.net

RI1341006F-R1341006D; AH/SM/pjj

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CERTIFICATE OF SERVICE

      It is hereby certified that the attached OPPOSITION TO PETITION TO STRIKE PATENT OWNER'S DECLARATIONS, AND COLUMN COMPARISON OF TPR'S PETITION AND TPR'S COMMENTS, along with this Certificate of Service, **are being served on November 4, 2013 by first class mail** on third party requesters at third party requesters' addresses as identified below for each merged Proceeding:

David L. McCombs
Haynes & Boone, LLP   [for *inter partes* Proceeding No. 95/002,035]
2323 Victory Avenue, Suite 700
Dallas, TX 75219

James J. Wong
2108 Gossamer Ave.   [for *ex parte* Proceeding No. 90/012,342]
Redwood City, CA 94065

      /Abe Hershkovitz/
Abraham Hershkovitz

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TPR's comments on PO's Response to ACP

TPR's petition to strike PO's Declarations

1.   These late-filed declarations should be denied entry. An affidavit or declaration filed after the issuance of an Action Closing Prosecution may be entered only "upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented." 37 C.F.R. 1.116(e). Patent Owner fails to demonstrate such "good and sufficient reasons."

1.   The declarations by Moon Tai Yeung and Koichiro Ikudome from should be denied entry into the record of this proceeding. An affidavit or declaration filed after the issuance of an Action Closing Prosecution may be entered only "upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented." 37 C.F.R. 1.116(e). Patent Owner has provided no reasons whatsoever for why the declarations and evidence were not earlier presented.

2.   Patent Owner asserts that until the Action Closing Prosecution, "the inventors did not have a recollection of the evidence establishing an earlier reduction to practice." (Resp. at 18.)

2.   Patent Owner asserts that until the Action Closing Prosecution, "the inventors did not have a recollection of the evidence establishing an earlier reduction to practice." (ACP Resp. at 18 (Jun. 28, 2013).)

3.   A review of the record, however, suggests that the Patent Owner apparently knew of the alleged evidence and *deliberately chose* not to provide it earlier.

3.   The record of this merged proceeding, however, suggests that the Patent Owner apparently knew of the alleged evidence and *deliberately chose* not to provide it earlier.

4.   The file history of Ex Parte Reexamination No. 90/012342 (prior to its merger with this proceeding) indicates that Patent Owner knew of the alleged evidence but deliberately chose not to submit it after the first Office Action: If necessary, Patent Owner is prepared to file Affidavits under 37 CFR § 131 in support of prior conception and reduction to practice before the filing date of Coss. (Control No. 90/012342, Response at 10 n. 14. (Feb. 7, 2013).) Since Patent Owner was *"prepared to file Affidavits"* after the first Office Action but chose not to, the declarations submitted following the Action Closing Prosecution *could have been* provided earlier. Patent Owner does not explain why it chose to withhold the declarations until now. Since it consciously pursued a strategy of delaying the presentation of its allegedly antedating evidence, Patent Owner does not have "good and sufficient reasons why the affidavit or other evidence ... was not earlier presented." The evidence should be refused entry.

4.   The file history of *Ex Parte* Reexamination No. 90/012342 (prior to its merger with this proceeding) indicates that Patent Owner knew of the alleged evidence but deliberately chose not to submit it after the first Office Action: If necessary, Patent Owner is prepared to file Affidavits under 37 CFR § 131 in support of prior conception and reduction to practice before the filing date of Coss. (Control No. 90/012342, Response at 10 n. 14 (Feb. 7, 2013).) Since Patent Owner was *"prepared to file Affidavits"* after the first Office Action but chose not to, the declarations submitted following the Action Closing Prosecution *could have been* provided earlier. Patent Owner has not explained why it chose to withhold the declarations. Since it consciously pursued a strategy of delaying the presentation of its allegedly antedating evidence, Patent Owner does not have "good and sufficient reasons why the affidavit or other evidence ... was not earlier presented." The evidence should have been refused entry.

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TPR's comments on PO's Response to ACP	TPR's petition to strike PO's Declarations
5.　　Furthermore, all of the evidence and information presented was accessible to the Patent Owner at the time of the previous Office Action. The declaration of Ikudome does not state where he found the submitted receipts from various computer-related purchases ("Appendix A") or why they would have been inaccessible to him until now. The other allegedly antedating exhibit ("Appendix B") is a Technical Innovation Report" that he previously discussed at his 2010 deposition in related litigation. (Ikudome Dec., ¶. 4.) Thus, the Patent Owner had access to all of the information that it now, belatedly, submits in an attempt to antedate Coss.	5.　　Furthermore, all of the evidence and information presented was accessible to the Patent Owner at the time of the previous Office Action. The declaration of Ikudome does not state where he found the submitted receipts from various computer-related purchases ("Appendix A") or why they would have been inaccessible to him until now. The other allegedly antedating exhibit ("Appendix B") is a "Technical Innovation Report" that he previously discussed at his 2010 deposition in related litigation. (Ikudome Decl., ¶ 4.) Thus, the Patent Owner had access to all of the information that it belatedly submitted in an attempt to antedate prior art.

Electronic Acknowledgement Receipt

EFS ID:	17311236
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	04-NOV-2013
Filing Date:	08-JUN-2012
Time Stamp:	19:42:16
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D-A08_Transmittal.pdf	158429 3fa42495f644db52397826c2fc7122cc1f28d001	no	1

Warnings:	
Information:	

2		RI1341006F-R1341006D-A08_Opposition-to-tprs-pet-to-strike-POs-Decs.pdf	174602 118de021e92607be6bcc5d6fcac5f5825a0bf8a4	yes	7

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Reexam - Opposition filed in response to petition	1	4
Reexam Certificate of Service	5	5
Reexam - Opposition filed in response to petition	6	7

Warnings:

Information:

Total Files Size (in bytes):	333031

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.

<u>New Applications Under 35 U.S.C. 111</u>
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<u>National Stage of an International Application under 35 U.S.C. 371</u>
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<u>New International Application Filed with the USPTO as a Receiving Office</u>
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HERSHKOVITZ & ASSOCIATES, PLLC

PATENT AGENCY

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Inventor: Koichiro Ikudome et al.

Art Unit: 3992

Reexamination Proceeding 90/012,342
(based on U.S. Patent No. 6,779,118)

Confirmation No.: 5786

Reexamination Filed: June 8, 2012

Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Mail Stop *"inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are OPPOSITION TO PETITION TO STRIKE PATENT OWNER'S DECLARATIONS AND COLUMN COMPARISON OF TPR'S COMMENTS AND TPR'S PETITION and a Certificate of Service in the above-captioned Proceeding.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other:				$		$
		Total:		$	Total:	$

___ Fee Payment made through EFS.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
X The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16 and 1.17, which are required for entry of the papers submitted herewith, and any fees which may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be required to complete issuance of this application to Deposit Account No. 50-2929.

Respectfully submitted,

Date:__November 4, 2013____

_____/Abe Hershkovitz/_____
Abraham Hershkovitz
Registration No. 45,294

R1341006D.A08; AH/pjj

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Jerome D. JOHNSON   Art Unit 3992

Merged Reexam Proceeding No. 95/002,035 (Main)   Conf. No. 1745
and Reexam Proceeding No. 90/012,342   Conf. No. 5786
(Based on US 6,779,118 C1)

                                                                          Examiner: Jalatee Worjloh
Filed: September 12, 2012 (Main) and June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

NOTICE OF APPEAL UNDER 37 CFR §§1.959 AND 41.61

Attn: Director of Central Reexamination Unit
Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Dear Director:

This Notice of Appeal is directed to the Right of Appeal Notice ("RAN") dated September 9, 2013 in the above-identified merged *inter partes/ex parte* Reexamination Proceedings ("the present merged Proceedings") for U.S. Patent No. 6,779,118 ("the '118 Patent").

Patent Owner respectfully submits that, although the RAN is improper and should be vacated, and a corrected RAN issued, Patent Owner is timely filing this Notice to appeal the final rejection of all claims in the Proceedings, i.e., claims 2-7, 9-14, 16-24 and 26-90, including any improper final determination in the RAN which is unfavorable to patentability of the claims.

This Notice is being filed electronically through EFS, including the Notice of Appeal fee under §41.20(b)(1), and it is believed that no other fees are required for entry and processing of this Notice in the record. However, the Office is authorized to charge any fees necessary for entry of this Notice, or to preserve the pendency of these Reexamination Proceedings, or credit any overpayment, to Deposit Account No. 50-2929, making reference to Att'y Dockets No. RI1341006F and No. R1341006D.

Evidence of service on third party requesters appears in the last page of this Notice.

1

The Office is invited to direct any questions regarding this matter to the practitioners identified below at the listed e-mail address, and telephone and facsimile numbers.

Respectfully submitted,
Linksmart Wireless Technology, L.L.C.

_____/Dinh X. Nguyen/_____
Abraham Hershkovitz
Reg. No. 45,294

Dinh X. Nguyen
Reg. No. 54,923

Date:_ October 8, 2013 _____

HERSHKOVITZ & ASSOCIATES, PLLC
2845 Duke Street
Alexandria, VA 22314
TEL: (703) 370-4800
FAX: (703) 370-4809
E-MAIL: patent@hershkovitz.net

RI1341006F-R1341006D.A07; AH/DXN/pjj

CERTIFICATE OF SERVICE

It is hereby certified that the attached NOTICE OF APPEAL UNDER 37 CFR §§1.959 AND 41.61, along with this Certificate of Service, **are being served on October 8, 2013 by first class mail** on third party requesters at third party requesters' addresses as identified below for each merged Proceeding:

David L. McCombs
Haynes & Boone, LLP   [for *inter partes* Proceeding No. 95/002,035]
90/013,342
2323 Victory Avenue, Suite 700
Dallas, TX 75219

James J. Wong
2108 Gossamer Ave.   [for *ex parte* Proceeding No. 90/012,342]
Redwood City, CA 94065

_____/Dinh X. Nguyen/_____
Dinh X. Nguyen

3

Electronic Acknowledgement Receipt

EFS ID:	17072558
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz/Dinh Nguyen
Filer Authorized By:	Abraham Hershkovitz
Attorney Docket Number:	R1341006-D
Receipt Date:	08-OCT-2013
Filing Date:	08-JUN-2012
Time Stamp:	16:50:12
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D-A07_Transmittal.pdf	164281 25aa405a41d7ef0bc7f9f56f960694831390 6c9d	no	1

Warnings:

Information:

| 2 | | RI1341006FR1341006D-A07_Notice-of-Appeal-and-CertofSrvc.pdf | 131865 | yes | 3 |
| | | | e8df96b97a356cbdde4d1f417cd15b18efb6ad4a | | |

Multipart Description/PDF files in .zip description

Document Description	Start	End
Notice of Appeal Filed	1	2
Reexam Certificate of Service	3	3

Warnings:

Information:

Total Files Size (in bytes):	296146

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.

<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.

HERSHKOVITZ & ASSOCIATES, PLLC

PATENT AGENCY

2845 DUKE STREET, ALEXANDRIA, VA 22314
TEL. 703-370-4800 ~ FACSIMILE 703-370-4809
patent@hershkovitz.net ~ www.hershkovitz.net

Inventor: Koichiro Ikudome et al.

Reexamination Proceeding 90/012,342
(based on U.S. Patent No. 6,779,118)

Reexamination Filed: June 8, 2012

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Art Unit: 3992

Confirmation No.: 5786

Examiner: Jalatee Worjloh

Mail Stop "*inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are NOTICE OF APPEAL UNDER 37 CFR §§1.959 AND 41.61 and a
Certificate of Service in connection with the above-captioned Proceeding.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other: Notice of Appeal				$		**$800.00**
		Total:		$	**Total:**	**$800.00**

X Fee Payment made through EFS.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
X The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16
and 1.17, which are required for entry of the papers submitted herewith, and any fees which
may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be
required to complete issuance of this application to Deposit Account No. 50-2929.

Respectfully submitted,

Date: October 8, 2013

_____/Dinh X. Nguyen/_____
Abraham Hershkovitz
Registration No. 45,294

Dinh X. Nguyen
Registration No. 54,923

R1341006D.A07; AH/pjj

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reexamination Merged Control Nos.: 95/002,035 and 90/012,342	§ § §	Attorney Docket No.: 43614.61
	§	Customer No.: 27683
Patent No.: 6,779,118	§ §	
	§	Real Party In Interest:
Examiner: Jalatee Worjloh	§	Cisco Systems, Inc.
	§	
For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM	§ §	Conf. Nos.: 1745 and 5786
	§	Art Unit: 3992
	§	

Mail Stop: Petition
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR § 1.181 TO STRIKE PATENT OWNER'S UNTIMELY DECLARATIONS FROM THE RECORD

I. Introductory Remarks

Following an Action Closing Prosecution ("ACP") mailed April 29, 2013, Patent Owner Linksmart Wireless Technology, LLC submitted inventor declarations under 37 C.F.R. §1.131. While no explanation for the late presentation of these declarations was provided, the Examiner nevertheless considered them on the merits, effectively entering them into the record. Requester Cisco Systems, Inc. hereby petitions under the provisions of 37 C.F.R. § 1.181 for supervisory review of the Examiner's decision to allow entry of the Patent Owner's late-filed declarations and evidence.

In accordance with 37 C.F.R. § 1.20(c)(6), the petition fee of $1940.00 is being paid with this filing. The Commissioner is hereby authorized to charge any deficiency or credit any overpayment for this request to Deposit Account No. 08-1394.

II. Statement of Facts

- On December 7, 2012, the Office issued an Action in *ex parte* reexamination control no. 90/012342. The Action cited US 6,170,012 to Coss in rejecting certain claims.
- On February 7, 2013, the Patent Owner filed a Response to the Dec. 7, 2012 Action. The Response stated that "Patent Owner is prepared to file Affidavits under 37 CFR §

131 in support of prior conception and reduction to practice before the filing date of Coss." (Response at 10, n.14.) The Response did not include any affidavits.

- On March 20, 2013, the Office *sua sponte* merged ex parte reexamination control no. 90/012342 with *inter partes* reexamination control no. 95/002035.

- The Office issued an ACP in the merged proceeding on April 29, 2013.

- Patent Owner filed a Response ("ACP Resp.") to the ACP on June 28, 2013. Patent Owner submitted with the Response declarations and evidence from named inventors Moon Tai Yeung and Koichiro Ikudome to support an alleged conception and reduction to practice before Coss.

- In a Right of Appeal Notice ("RAN") dated September 9, 2013, the Office considered the declarations and evidence submitted by Patent Owner after the ACP. *See* RAN at 17-19.

- On September 27, 2013 Patent Owner filed a petition under 37 C.F.R. §1.181 to vacate the RAN dated September 9, 2013.

III. Action Requested

Cisco hereby respectfully requests that the declarations by Moon Tai Yeung and Koichiro Ikudome, along with the evidence submitted as exhibits to those declarations, be stricken from the record and not considered on the merits because the Patent Owner has not complied with the required procedure for entry of such materials following an Action Closing Prosecution.

IV. Argument

The declarations by Moon Tai Yeung and Koichiro Ikudome from should be denied entry into the record of this proceeding. An affidavit or declaration filed after the issuance of an Action Closing Prosecution may be entered only "upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented." 37 C.F.R. 1.116(e). Patent Owner has provided no reasons whatsoever for why the declarations and evidence were not earlier presented.

Patent Owner asserts that until the Action Closing Prosecution, "the inventors did not have a recollection of the evidence establishing an earlier reduction to practice." (ACP Resp. at 18 (Jun. 28, 2013).) The record of this merged proceeding, however, suggests that the Patent Owner apparently knew of the alleged evidence and deliberately chose not to provide it earlier.

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The file history of *Ex Parte* Reexamination No. 90/012342 (prior to its merger with this proceeding) indicates that Patent Owner knew of the alleged evidence but deliberately chose not to submit it after the first Office Action:

> If necessary, Patent Owner is prepared to file Affidavits under 37 CFR § 131 in support of prior conception and reduction to practice before the filing date of Coss.

(Control No. 90/012342, Response at 10 n. 14 (Feb. 7, 2013).) Since Patent Owner was *"prepared to file Affidavits"* after the first Office Action but chose not to, the declarations submitted following the Action Closing Prosecution *could have been* provided earlier. Patent Owner has not explained why it chose to withhold the declarations. Since it consciously pursued a strategy of delaying the presentation of its allegedly antedating evidence, Patent Owner does not have "good and sufficient reasons why the affidavit or other evidence ... was not earlier presented." The evidence should have been refused entry.

Furthermore, all of the evidence and information presented was accessible to the Patent Owner at the time of the previous Office Action. The declaration of Ikudome does not state where he found the submitted receipts from various computer-related purchases ("Appendix A") or why they would have been inaccessible to him until now. The other allegedly antedating exhibit ("Appendix B") is a "Technical Innovation Report" that he previously discussed at his 2010 deposition in related litigation. (Ikudome Decl., ¶ 4.) Thus, the Patent Owner had access to all of the information that it belatedly submitted in an attempt to antedate prior art.

The Examiner should have denied entry of the Patent Owner's untimely declarations. The Examiner stated in the Right of Appeal Notice, however, that "The Declarations filed on June 28, 2013 from Moon Tai Yeung and Koichiro Ikudome have been considered." (RAN at 17.) Cisco asks that the Director's supervisory authority be used to correct the situation. Striking the Patent Owner's untimely declarations and evidence will bring the record of this proceeding back into compliance with the procedure of 37 CFR § 1.116(e). As the issue is one of compliance with Patent Office procedure, it is not subject to appeal to the Patent Trial and Appeal Board and is instead properly corrected through this petition under 37 CFR 1.181.

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IV.   Conclusion

Patent Owner has not provided "showing of good and sufficient reasons" to enter the late-filed declarations and evidence in these merged proceedings. The Examiner's decision to allow them entry is contrary to the procedure required under 37 CFR 1.116(e) and should be corrected by striking the untimely Yeung and Ikudome declarations and evidence from the record.

As identified in the attached Certificate of Service, a copy of the present petition, in its entirety, is being served to the address of the attorney or agent of record.

Respectfully submitted,

/David L. McCombs/

David L. McCombs
Registration No. 32,271

Dated: October 4, 2013

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Telephone: 214/651-5533
Facsimile: 214/200-0853

CERTIFICATE OF SERVICE
I hereby certify that this correspondence, all attachments, and any corresponding filing fee is being transmitted via the Electronic Filing System (EFS) Web with the United States Patent and Trademark Office on October 4, 2013.

Theresa O'Connor

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the PETITION UNDER 37 CFR § 1.181 TO STRIKE PATENT OWNER'S UNTIMELY DECLARATIONS FROM THE RECORD was served on:

> HERSHKOVITZ & ASSOCIATES, PLLC
> 2845 DUKE STREET
> ALEXANDRIA, VA 22314

the attorney of record for the assignee of USP 6,779,118 and

> JAMES J. WONG
> 2108 GOSSAMER AVE.
> REDWOOD CITY, CA 94065

the attorney of record for the requester in Control No. 90/012342, in accordance with 37 CFR § 1.903, on October 4, 2013.

/David L. McCombs/

David L. McCombs,
Registration No. 32,271

Electronic Acknowledgement Receipt

EFS ID:	17039655
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	David L. McCombs/Theresa O'Connor
Filer Authorized By:	David L. McCombs
Attorney Docket Number:	R1341006-D
Receipt Date:	04-OCT-2013
Filing Date:	08-JUN-2012
Time Stamp:	11:15:16
Application Type:	Reexam (Third Party)

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		3PR_Petition_to_Strike_POs_Untimely_Delcarations_from_Record.pdf	201983 e478c17c226e47266ce7c3232bc84660b4929541	yes	5

Multipart Description/PDF files in .zip description		
Document Description	Start	End
Receipt of Petition in a Reexam	1	4
Reexam Certificate of Service	5	5

Warnings:

Information:

Total Files Size (in bytes):	201983

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Jerome D. JOHNSON	Art Unit 3992
Merged Reexam Proceeding No. 95/002,035 (Main)	Conf. No. 1745
and Reexam Proceeding No. 90/012,342	Conf. No. 5786
(Based on US 6,779,118 C1)	
	Examiner: Jalatee Worjloh
Filed: September 12, 2012 (Main) and June 8, 2012	

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

PETITION UNDER 37 C.F.R. §1.181 TO
VACATE IMPROPER RIGHT OF APPEAL NOTICE

Attn: Director of Central Reexamination Unit
Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Dear Director:

This Petition is directed to the Right of Appeal Notice ("RAN") dated September 9, 2013 in the above-identified merged *inter partes/ex parte* Reexamination Proceedings ("the present merged Proceedings") for U.S. Patent No. 6,779,118 ("the '118 Patent"). Vacatur of the outstanding RAN is respectfully solicited for at least the reasons discussed below.

The Patent and Trademark Office is hereby authorized to charge any fees necessary for entry of this Petition or to preserve the pendency of these Reexamination Proceedings, or credit any overpayment, to Deposit Account No. 50-2929, making reference to Att'y Dockets No. RI1341006F and No. R1341006D.

Basis for Seeking Relief

The Examiner refused to permit antedating of a reference used in rejecting the claims on the basis of (1) lack of showing of diligence between the dates of conception and reduction to practice; and (2) lack of showing of a nexus between the claimed subject matter and the reduced to practice document.

These are clear errors by the Examiner because (1) there is no requirement in the regulations for a showing of diligence where, as here, actual reduction to practice took place before the effective filing date of the reference to Coss et al., US Patent No. 6,170,012 (hereinafter "Coss"); and (2) the reduced to practice document is essentially identical to the disclosure of the provisional application which forms the basis of the '118 Patent.

REMARKS

I.   INTRODUCTION

This Petition is filed to have the RAN dated September 9, 2013 vacated. A copy of this Petition is being served on third party requester pursuant to 37 C.F.R. §§1.248 and 1.903. Section 1.903 is applicable because these merged Proceedings include an *inter partes* Reexamination that has been merged with an *ex parte* Reexamination, and the procedures attendant to *inter partes* Reexamination control in merged Proceedings.

II.   SPECIFIC CLAIM REJECTIONS ADDRESSED IN THIS PETITION

Prior to the merging of the *ex parte* and *inter partes* Reexamination Proceedings, the claims described below were rejected in the *ex parte* Reexamination Proceeding. The present Petition is filed to specifically address the following two claim rejections in the merged Proceedings that rely on Coss:

   a. Claims 2-7, 9-14, 28-35 and 44-67 were rejected in the April 29, 2013 Action Closing Prosecution ("ACP") as being obvious over Radia in view of Admitted Prior Art and further in view of the patent to Coss. These claims were also rejected on the same grounds in the RAN.

   b. Claims 16-24, 26, 27, 36-43, and 68-90 were rejected in the ACP as being obvious over the patent to Coss in view of Admitted Prior Art. These claims were also rejected in the RAN on the same grounds.

III.   THE RAN TREATS IMPROPERLY THE 37 C.F.R. § 1.131 DECLARATIONS FILED TO ADDRESS THE REJECTIONS BASED ON COSS

On June 28, 2013, Patent Owner filed a Response to the ACP. In that Response, at page 17, Patent Owner specifically discussed the two grounds of rejection that included Coss. Patent Owner included the following discussion, which bridges pages 17 and 18 of the Response to the ACP:

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"Patent Owner submits herewith the Declarations of Inventors Koichiro Ikudome and Moon Tai Yeung under 37 C.F.R. §1.131 demonstrating that the invention recited in the '118 patent was conceived and reduced to practice before August 14, 1997, which is prior to the September 12, 1997 filing date of Coss et al., U.S. Patent No. 6,170,012. Coss is therefore not prior art as to the '118 patent. As set forth in the Ikudome Declaration, when the Examiner maintained the rejection in the 4/29/2013 ACP, Inventor Ikudome undertook a detailed investigation of his records and discovered not only receipts for the purchase of equipment acquired for the purpose of testing the invention concept, but also located a document dated August 14, 1997 which is being submitted with his 37 C.F.R. §1.131 Declaration which shows that the invention was actually reduced to practice before the Coss filing date. Patent Owner therefore respectfully requests withdrawal of all of the above rejections citing Coss. Rejections based on Radia in combination with APA without reliance on Coss have been addressed above. These Declarations should be entered because (1) they are necessary to eliminate Coss as "prior art" and (2) they could not have been presented earlier since the inventors did not have a recollection of the evidence establishing an earlier reduction to practice than Coss until after the Examiner's mailing of the ACP."

Notwithstanding the above discussion, which states that the invention of the '118 Patent **had actually been both conceived _and_ reduced to practice prior to August 14, 1997**, the RAN nevertheless includes the two rejections that rely on Coss. The RAN also includes a discussion of conception and diligence in which the Examiner asserts that the Section 1.131 Declarations allegedly did not properly address conception and reduction to practice. The Examiner's analysis of the Section 1.131 Declarations by the inventors is totally inaccurate, and appears at pages 17-19 of the RAN as follows:

Declaration under 37 CFR 1.131

The Declarations filed on June 28, 2013 from Moon Tai Yeung and Koichiro Ikudome have been considered, but are ineffective to overcome the Coss reference.

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The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of Silverman[*] reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

In this case, the claimed limitations are not discussed in the evidence provided. For instance, the claims recite "rule set" and "the redirection server is configured to allow automated modification of at least a portion of the rule set correlated the temporarily assigned network address," which is not described in the exhibits. The declaration "must establish possession of ·either the whole invention claimed or something falling within the claim (such as a species of a claimed genus) in the sense that the claim as a whole reads on it." MPEP 715.02. Further, the declaration does not provide a nexus between the evidence and the claims.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Coss reference to either a constructive reduction to practice or an actual reduction to practice. "Evidence in the form of exhibits may accompany the affidavit or declaration. Each exhibit relied upon should be specially referred to in the affidavit or declaration, in terms of what it is relied upon to show. "MPEP 715.05. In this case, the declaration fails to explain which facts are being relied on to prove diligence. Also, Patent owner has failed to provide evidence to fully account for the time period during which due diligence must be established.

> *An applicant must account for the entire period during which*
> *diligence is required GouM v. Schawlow, 363 F.2d 908, 919, 150*
> *USPQ 634, 643 (CCPA 1966) (Merely stating that there were no*

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[*] There does not appear to be a reference named "Silverman" in the merged proceeding.

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weeks or months that the invention was not worked on is not enough);
In re Harry, 333 F2d 920, 923, 142 USPQ 164, 166 (CCPA
1964)(statement that the subject matter "was diligently reduced to
practice" is not a showing but a mere pleading). A 2-day period
lacking activity has been held to be fatal. In re Mulder, 716 F.2d
1542, l545, 219 USPQ 189, 193 (Fed Cir. 1983) (37 CFR 1.131
issue); Fitzgerald v. Arbib, 268 F.2d 763, 766, 122 USPQ 530, 532
(CCPA 1959) (Less than 1 month of inactivity during critical period
Efforts to exploit an invention commercially do not constitute
diligence in reducing it to practice. An actual reduction to practice in
the case of a design for a three-dimensional article requires that it
should be embodied in some structure other than a mere drawing.);
Kendall v. Searles, 173 F.2d 986, 993, 81 USPQ 363, 369 (CCPA
1949) (Diligence requires that applicants must be specific as to dates
and facts.)

The evidence submitted is insufficient to establish a reduction to
practice of the invention in this country or a NAFT A or WTO member
country prior to the effective date of the Coss reference. To establish
actual reduction to practice, a showing of the invention in a physical or
tangible form that shows every element of the count. *Wetmore v. Quick,* 536
F.2d 937, 942, 190 USPQ 223, 227 (CCPA 1976). For an actual reduction
to practice, the invention must have been sufficiently tested to demonstrate
that it will work for its intended purpose, but it need not be in a
commercially satisfactory stage of development.> See, e.g., *Scott v. Finney,*
34 F.3d 1058, 1 062; 32 USPQ2d 1115, 1118-19 (Fed. Cir. 1994). MEPE
(*sic,* MPEP) 2138.05. (Emphasis in bold added.)

In order to establish prior invention, which includes a conception and an actual reduction
to practice of their invention, the joint inventors of the '118 Patent each submitted a proper and
sufficient 37 C.F.R 1.131 Declaration in the merged Reexamination Proceedings. The individual
Declaration of Moon Tai Yeung references copies of invoices showing hardware purchased
throughout the month of May 1997, and a Technical Innovation Report dated August 14, 1997.

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The Declaration of Koichiro Ikudome also references those documents, and further references pages 238-239 of a videotaped Deposition taken on March 4, 2010. **The documents attached to the respective 37 C.F.R. § 1.131 declarations of the joint inventors clearly establish both prior conception and prior actual reduction to practice of the invention disclosed and claimed in the '118 Patent.**

In addition, it should be noted that in the earlier *ex parte* Reexamination Proceeding 90/009,301 for the '118 Patent, the Primary Examiner held that Provisional Application No. 60/084,014 filed May 4, 1998 (hereinafter "the '014 Provisional Application") clearly supported the disclosure in the '118 Patent. Exhibit A, attached hereto, includes page 2-6 of the Order Granting *Ex Parte* Reexamination in Control No. 90/009,301 in which the Examiner makes that statement. Note should be taken that the August 14, 1997 Technical Innovation Report that was attached to each of the two 37 C.F.R §1.131 Declarations referenced above is essentially identical to the disclosure of the '014 Provisional Application. Accordingly, it is clear that the August 14, 1997 Technical Innovation Report contains a description of the invention disclosed and claimed in the '118 Patent which is the subject of the present merged Reexamination Proceedings.

IV.   CONCLUSION

During the course of reexamining Patent No. 6,779,118, the Central Reexamination Unit clearly established that the '014 Provisional Application supports the disclosure of the '118 Patent, which is now the subject of merged Reexamination Proceedings No. 95/002,035 and No. 90/012,342. In the September 9, 2013 RAN, the Examiner's criticism of the 37 C.F.R § 1.131 Declarations filed by each one of the two joint inventors with respect to the lack of a showing of a conception date and the lack of a showing of diligence through a reduction to practice is simply incorrect, **because the joint inventors of the '118 Patent actually reduced their invention to practice as evidenced by the August 14, 1997 Technical Innovation Report.** Accordingly, the two grounds of rejection in which Coss is relied upon cannot be asserted by the Office in the '118 Patent merged Reexamination Proceedings because the Section 1.131 Declarations clearly establish an actual reduction to practice date (and a conception date) earlier than the earliest date to which Coss is entitled.

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Accordingly, the Central Reexamination Unit Director is respectfully requested to vacate the September 9, 2013 RAN and to instruct the Examiner to issue a corrected Right of Appeal Notice that omits any ground of rejection based upon Coss.

The Office is invited to direct any questions or comments regarding this matter to the undersigned practitioner at the below-listed e-mail address, and telephone and facsimile numbers.

Respectfully submitted,
Linksmart Wireless Technology, L.L.C.

      /Abe Hershkovitz/
Abraham Hershkovitz
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Stephen Marcus
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Date: September 27, 2013

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RI1341006F-R1341006D; AH/SM/pjj

CERTIFICATE OF SERVICE

It is hereby certified that the attached PETITION UNDER 37 C.F.R. §1.181 TO VACATE IMPROPER RIGHT OF APPEAL NOTICE AND EXHIBITS A-C, along with this Certificate of Service, **are being served on September 27, 2013 by first class mail** on third party requesters at third party requesters' addresses as identified below for each merged Proceeding:

David L. McCombs
Haynes & Boone, LLP   [for *inter partes* Proceeding No. 95/002,035]
90/013,342
2323 Victory Avenue, Suite 700
Dallas, TX 75219

James J. Wong
2108 Gossamer Ave.   [for *ex parte* Proceeding No. 90/012,342]
Redwood City, CA 94065

_____/Abe Hershkovitz/_____
Abraham Hershkovitz

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Electronic Acknowledgement Receipt

EFS ID:	16984853
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	27-SEP-2013
Filing Date:	08-JUN-2012
Time Stamp:	23:35:20
Application Type:	Reexam (Third Party)

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	Trans Letter filing of a response in a reexam	R1341006D_Transmittal.pdf	159134 42fcdc8c85a71519afaeb05ac8e452a99852412b	no	1

Warnings:
Information:

| 2 | | RI1341006FR1341006D_181-Petition.pdf | 232376
56d068ce96487739b975c7acdb1cd8b9549ef137 | yes | 8 |

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Receipt of Petition in a Reexam	1	7
Reexam Certificate of Service	8	8

Warnings:

Information:

| 3 | Receipt of Petition in a Reexam | RI1341006FR1341006D_181-Pet-Exhibit-A.pdf | 198924
a0c84875a060957d178b893bacbe6867e67e15ea | no | 6 |

Warnings:

Information:

| 4 | Receipt of Petition in a Reexam | RI1341006FR1341006D_181-Pet-Exhibit-B.pdf | 716604
c81629cbf1ade83512fc72a1377e24b7afc9df84 | no | 16 |

Warnings:

Information:

| 5 | Receipt of Petition in a Reexam | RI1341006FR1341006D_181-Pet-Exhibit-C.pdf | 85835
6c6a32bedaa1a78a9012a6cacf74da7d719a533a | no | 4 |

Warnings:

Information:

Total Files Size (in bytes):	1392873

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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Inventor: Koichiro Ikudome et al.

Reexamination Proceeding 90/012,342
(based on U.S. Patent No. 6,779,118)

Reexamination Filed: June 8, 2012

Art Unit: 3992

Confirmation No.: 5786

Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Mail Stop *"inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are PETITION UNDER 37 CFR §1.181 TO VACATE IMPROPER RIGHT OF APPEAL NOTICE, EXHIBITS A-C and a Certificate of Service in connection with the above-captioned Proceeding.

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other:				$		$
		Total:		$	Total:	$

___ Fee Payment made through EFS.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
X The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16 and 1.17, which are required for entry of the papers submitted herewith, and any fees which may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be required to complete issuance of this application to Deposit Account No. 50-2929.

Respectfully submitted,

Date: September 27, 2013

/Abe Hershkovitz/
Abraham Hershkovitz
Registration No. 45,294

R1341006D.A06; AH/pjj

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

40401 7590 09/09/2013	EXAMINER
Hershkovitz & Associates, PLLC	WORJLOH, JALATEE
2845 Duke Street	
Alexandria, VA 22314	

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
09/09/2013	PAPER

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.

PTOL-90A (Rev. 04/07)

Transmittal of Communication to Third Party Requester *Inter Partes* Reexamination	Control No. 95/002,035 and 90/012342	Patent Under Reexamination 6779118	
	Examiner Jalatee Worjloh	Art Unit 3992	

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

┌───── (THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS) ─────┐

James J. Wong
2108 Gossamer Ave.
Redwood City, CA 94065

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination prceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

	Control No.	Patent Under Reexamination
Right of Appeal Notice **(37 CFR 1.953)**	95/002,035 and 90/012,342	6779118
	Examiner	Art Unit
	Jalatee Worjloh	3992

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

Responsive to the communication(s) filed by:
Patent Owner on <u>28 June, 2013</u>
Third Party(ies) on <u>26 July, 2013</u>

Patent owner and/or third party requester(s) may file a notice of appeal with respect to any adverse decision with payment of the fee set forth in 37 CFR 41.20(b)(1) within **one-month or thirty-days (whichever is longer)**. See MPEP 2671. In addition, a party may file a notice of **cross** appeal and pay the 37 CFR 41.20(b)(1) fee **within fourteen days of service** of an opposing party's timely filed notice of appeal. See MPEP 2672.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

If no party timely files a notice of appeal, prosecution on the merits of this reexamination proceeding will be concluded, and the Director of the USPTO will proceed to issue and publish a certificate under 37 CFR 1.997 in accordance with this Office action.

The proposed amendment filed _____ ☐ will be entered ☐ will not be entered*

*Reasons for non-entry are given in the body of this notice.

1a. ☒ Claims <u>2-7,9-14,16-24 and 26-90</u> are subject to reexamination.
1b. ☐ Claims _____ are not subject to reexamination.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are confirmed. [Unamended patent claims].
4. ☐ Claims _____ are patentable. [Amended or new claims].
5. ☒ Claims <u>2-7,9-14,16-24 and 26-90</u> are rejected.
6. ☐ Claims _____ are objected to.
7. ☐ The drawings filed on _____ ☐ are acceptable. ☐ are not acceptable.
8. ☐ The drawing correction request filed on _____ is ☐ approved. ☐ disapproved.
9. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d) or (f). The certified copy has:
    ☐ been received. ☐ not been received. ☐ been filed in Application/Control No. _____.
10. ☐ Other _____

Attachments

1. ☐ Notice of References Cited by Examiner, PTO-892
2. ☐ Information Disclosure Citation, PTO/SB/08
3. ☐ _____

RIGHT OF APPEAL NOTICE

Introduction

Claims 2-7, 9-14, 16-24, and 26-90 to U.S. Patent No. 6,779,118 to Ikudome, et al. ("Ikudome") are under *inter partes* reexamination. All claims are rejected.

Patent owner comments after ACP were filed June 28, 2013. Third party requester comments after ACP were filed July 26, 2013.

References cited in Request

- U.S. Patent No. 583727 to Wong et al. ("Wong '727");

- U.S. Patent No. 6073178 to Wong et al. ("Wong '178");

- U.S. Patent No. 5950195 to Stockwell et al. ("Stockwell");

- U.S. Patent No. 5889958 to Willens;

- U.S. Patent No. 5848233 to Radia et al. ("Radia");

- Request for Comments 2138, Internet Engineering Task Force, April 1997 (RFC 2138);

- U.S. Patent No. 6088451 to He et al. ("He");

- U.S. Patent No. 6233686 to Zenchelsky et al. ("Zenchelsky");

- U.S. Patent No. 5815574 to Fortinsky; and

- U.S. Patent No. 6170012 to Coss et al. ("Coss").

Response to Arguments

Withdrawal of Claim 27 Rejection over Willens in view of RFC 2138/Willens in view of RFC 2138 and the Admitted Prior Art

The Requester disagrees with the Examiner's decision to withdraw the rejection of claim 27 over Willens in view of RFC 2138 and Stockwell and Willens in view of RFC 2138 and the Admitted Prior Art. Requester states that the use of the word "necessarily" suggests that the prior art was evaluated for inherency, which is not required since the proposed rejection is for obviousness, not anticipation.

In response, the Examiner notes that the claim was properly evaluated. Willens teaches updating the permit list, but does not expressly disclose removal or reinstatement of a portion of the rule set as required by the claim. The reference does not define updating as reinstating or removing data. Thus, this rejection remains withdrawn.

Withdrawal of Claims 16-24, 26, 27, 36-39, 68-82, 84, and 85 rejections over He, Zenchelsky and the Admitted Prior Art

Requester disagrees with the Examiner's decision to withdraw the rejection of claims 16-24, 26, 27, 36-39, 68-82, 84, and 85 over He, Zenchelsky, and the Admitted Prior Art. It is noted that "while the Board found that He did not expressly teach the "time" limitation, "blocking a website based on these bases "would have been obvious." (Control No. 90/009301, Decision on Appeal at 10).

The Examiner respectfully disagrees with the Requster. Thd Board decision states that "blocking" would be obvious; however, the claim requires modifying the rule set based on the

condition of time. Specifically, "modification of at least a portion of rule set as a function of some combination of time, data transmitted to or from the user, or location the user access" and the Decision does not indicate that modifying based on the condition of time would have been obvious. Thus, this rejection remains withdrawn.

User Session

PO: Patent owner states that the term "session" is used to describe the period during which a single temporality assigned network address is assigned to a user computer, and the redirection server processes packets communicated between the user and the network according to the programmed rule set.

Patentee asserts that all pending claims use language requiring that the rule set be "correlate" with the "temporarily assigned network address" which only occurs when the user ID and the temporarily assigned network address is assigned so the user can begin interacting with the Internet through the redirection server. It is noted that the claims therefore limit redirection to occurring only during a "session" – while the temporarily assigned network address is assigned to the user.

TPR: Requester notes the patent owner's interpretation would improperly import limitations from the specification into the claims. However, it is well accepted that limitations from the specification are not read into the claims.

Examiner:. During reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims *(In re Yamamoto*, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).

As indicated at ACP, the claims do not recite the term "session" and the limitations in the specification are not read into the claims. As per the claims limiting redirection to occur only while the temporarily assigned network address is assigned to the user, the Examiner agrees that the claims recite correlating either a user ID or a rule set to the temporarily assigned network. However, at least Willens teaches "the rule set being correlated to the temporarily assigned network address" as recited in the claim. The reference discloses a communication server (redirection server) that stores recently used portions of a PTA list in a temporary cache (see col. 5, lines 64-col. 6, line 9); so, the rule set (PTA list) is correlated to a temporarily assigned network address (cache).

Correlation of the rule set to a temporarily assigned network address

PO: Patent owner argues that neither Willens nor Stockwell teaches or suggests a rule set "correlated to" a temporarily assigned network address as a condition of redirection." Patentee notes that the ordinary meaning of correlation according to Webster's Dictionary is "a relation existing between phenomena or things or between mathematical or statistical variables which tend to vary, be associated, or occur together in a way not expected on the basis of chance alone." In the '118 patent, the rule set used in the redirection server and temporary network address assignment are associated together in the redirection server and occur together at the time of user log in.

Additionally, Patent owner asserts that combining Willens and Stockwell would no teach or suggest the rule set and the temporarily assigned network address be associated and occur together in the redirection server while data from the user is being processed, and such a

relationship would only be obvious in the combination of Willens and Stockwell using impermissible hindsight based on the teaching of the '118 patent.

Patentee states that Willens fails to teach the redirection server and Stockwell does not teach redirection by a redirection server when the rule set specifying a redirection rule is correlated with a temporarily assigned network address and which occurs in response to a condition other than a destination address.

TPR: Requester submits none of the claims recite that the correlation is "a condition of redirection." Also, it is noted that Willens teaches correlating a user's rule set to a temporarily assigned network address as part of a user login process. Specifically, Willens teaches checking a user's password, locating his user profile and filter ("individual rule set"), and providing them to client software 44 ("redirection server") to control the user's access to the Internet. See col. 5, lines 5-17. Willens then shows that the user's individualized rule set is identified and applied to communications to or from the user's temporarily assigned network address (see col. 6, lines 35-46).

Requester notes that Patent Owner is arguing against the references individually. Also, Willens teaches a variety of criteria that may be used for filtering traffic (see 6:16-22) and Stockwell teaches that traffic may be filtered through a redirection action (see 2:29-31). Thus, the combination renders obvious applying a redirection filter based on a variety of crieteria.

Examiner: The Examiner respectfully disagrees with Patent owner. In response to Patent owner arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re*

Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986).

The Examiner agrees with the Requester that the claims do not expressly recite

correlation is a "condition of redirection." Also, the claims do not expressly state that this occurs

together at the time of user log in. Instead, the claims require the user ID or the rule set to be

correlated the temporarily assigned network address, and redirecting the data to and from the

users' computers as a function of the individual rule set (see claim 5). Another example of

correlation recited in the claims is in recited in claim 16, which reads "a redirection server

programmed with a user's rule set correlated to a temporarily assigned network address".. "the

redirection server is configured to allow automated modification of at least a portion of the rule

set correlated to the temporarily assigned network address."

Generally, correlation is the relationship between things. Giving the claims the broadest

reasonable interpretation consistent with the specification, without reading limitations in the

specification into the claims, Willens' rule set (PTA list), which is stored at the redirection server

(communication server) is associated with the temporary assigned network address (cache). See

col. 5, lines 64-col. 6, line 9.

In response to Patent owner's argument that the examiner's conclusion of obviousness is

based upon improper hindsight reasoning, it must be recognized that any judgment on

obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the

Patent owner's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Modification of a portion of the rule set

PO: Patent owner argues that Willens is not modified during a user session. Willens not only does not teach modification of the rule set programmed and in use in the redirection server, but actually teaches that there is no modification while the filter is in use.

Rather, the '118 patent requires that the rule set be modified be the one actually programmed in the redirection server (not a rule set stored in the authentication server 204). This necessarily means that the modification occurs after the rule set is programmed into the redirection server (when the user logs in and before the rule set program is removed (when the user logs off) – in short, during a user session. See e.g., '118 patent Claim 16, second paragraph.

Therefore, contrary to the Examiner's analysis, Willens describes a system where the rule set downloaded-programmed-into the communications server software and used to process data from the user to the Internet is static and does not change during the user's session.

TPR: Requester submits that the teachings of Willens and Stockwell teach disclose modification of at least a portion of the rule set. That is, Willens teaches that the communication server 14 ("redirection server" loads and caches the PTA list from ChoiceNet server 18 (see col. 5, lines 64-67). The communication server 14 does not permanently store the entire PTA List as the Patent Owner argues, but rather stores recently used portions of it in a temporary cache. Willens teaches that a portion of the rule set on communication server 14 (i.e. the cached portion of the PTA List) may be automatically modified. See col. 5, lines 41-43 and col. 4, lines 43-44.

As for Stockwell, the reference teaches that cache entries should only be relied on before their expiration, thus avoiding the use of stale data (see col. 8, lines 30-33). It would have been obvious to apply a similar expiration timer to the cache entries in Willens' communications server 14, thus ensuring that automatic updates received by ChoiceNet server 18 will propagate down to the communications server 14 in a timely fashion.

Examiner: The Examiner respectfully disagrees with Patent owner. For instance, claim 16 recites "a redirection server programmed with a user's rule set"... "wherein the redirection server is configured to allow automated modification of at least a portion of the rule set." Willens discloses a redirection server (communication server 14) programmed with a user's rule set (PTA list). Specifically, Willens recites:

> *The server 14 looks at each filter rule found in "F(Timmy)" starting from the top. When it reaches the rule permit "PTA List," the server 14 looks into its local cache 50 to see if www.playboy.com is on the PTA List. If not, the server 14 sends a filter look-up request to the server.*

The communication server of Willens stores the PTA list at least in its local cache. Thus, Willens teaches "a redirection server programmed with a user's rule set."

Regarding Patent owner's argument that Willens fails to teach modification occurring after the rule set is programmed into the redirection server (when the user logs in and before the rule set program is removed (user logged off)), the Examiner respectfully disagrees. The claims require the redirection server to allow modification of the rule, which is taught by Willens.

In Willens, while a user is logged in, the client software can send a lookup request to the network access server to download filters. The server software automatically maintains the

permit list by downloading updated versions of the list over the Internet and compiling the list

for use by the client software. See col. 5,lines 9-46. Also, Willens teaches updating the list daily

or hourly (see col. 4, lines 40-45). Since the client software 44, which is part of the

communications server 14 (see fig. 3) receives the updated versions of the list, the

communications server allows modification of the rule set. Hence, the redirection server of

Willens is configured to allow automated modification of at least a portion of the rule set as

required by the claim.

Elements or Conditions

PO: Patent owner argues that the claims incorporating modification of a rule set (occurring with

a temporarily assigned network address) programmed in the redirection server is not shown in

either Willens or Stockwell, and a combination of the two references would not render claims

with rule set modification obvious without impermissible hindsight.

TPR: Requester submits that the references teach modifying a rule set based on time, data

transmitted to or form a user, and a location accessed. (see Ex. AA at 21-23, Willens, 4:40-45,

5:8-18, and 6:2-7).

Examiner: The Examiner agrees with the Requester. Also, as expressed above, Willens teaches

modification of a rule set programmed in the redirection server (see pages 7-8).

   In response to Patent owner arguments against the references individually, one cannot

show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re*

Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Radia/Wong '727/Wong '178 combined with Stockwell/APA

Configured to allow modification

PO: Patent owner argued that nothing in Radia teaches or discloses a system where the filter

configured (programmed) in a router or modem causes the programmed filter to change. The

redirection being "configured to allow modification" requires the redirection server to be able to

do the modification when the conditions of the rule set calling for modification to occur.

The specification requires that the redirection server actually perform whatever action is

prescribed by the programmed rule set. See '118 at 3:15-30, 4:52-66, and 5:31-44. Also, "allow"

means that the redirection server automatically modifies the rules set only when the specified

condition arises.

The ordinary meaning of "configured" from the Merriam Webster dictionary is "to set up

for operation especially in a particular way." The "redirection server programmed with a user's

rule set" sets the redirection server up for operation to process data from the user.

TPR: Requester submits that the claims do not recite that the redirection server itself performs

the modification. Rather, the claim limitation at issue requires the redirection server be

"configured to allow modification" of the rule set. The '118 Patent includes examples where the

redirection serer allow" an outside server to modify the rule set (see 8:6-10 - modification an

outsider server can make to a rule set on the redirection server is not limited to deleting a

redirection rule).

Patent Owner's argued claim interpretation is inconsistent with the broadest reasonable

interpretation in light of the specification, as it would exclude embodiments where the rule set is

modified by an outside server.

Examiner: The Examiner agrees with the Requester. During reexamination, claims are given

the broadest reasonable interpretation consistent with the specification and limitations in the

specification are not read into the claims (In re Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed.

Cir. 1984)).

The claims recited "redirection server is configured to allow automated modification of at

least a portion of the rule set," which does not limit the modification to the redirection server. As

expressed by the Requester, at least one embodiment of the system permits an outsider server to

make modification to the rule set. Specifically, col. 8, lines 3-11 recites:

> *The web site then sends an authorization to the redirection server that deletes the*
>
> *redirection to the questionnaire web site from the rule set for the user who successfully*
>
> *completed the questionnaire. Of course, **the type of modification an outside server can***
>
> ***make to a rule set on the redirection server** is not limited to deleting a redirection rule,*
>
> *but can include any other type of modification to the rule set that is supported by the*
>
> *redirection server as discussed above.*

Router and ANCS function as the redirection server

PO: Patent owner argues that the claims require that the redirection server programmed with the

rule set correlated with the temporarily assigned network address to do the modification of the

programmed rule set. Radia does not reach this. Rather, Radia teaches only that filtering rules

be changed in response to an "event" not part of the filter itself and not part of the filter

programmed in the route such as "log on," "log out" or "connecting."

TPR: Requester submits that the claims do not require the rule set to include instructions for its

own modification.

Examiner: The Examiner respectfully disagrees with Patent owner. The claims do not require

redirection server to do the modification, but to "allow automated modification of at least a

portion of the rule set."

Combining Radia and Stockwell

PO: Patent owner argues that combining Radia and Stockwell and any combination of the two

references would not incorporate the limitations of the claims without using the disclosure of the

'118 patent and impermissible hindsight.

TPR: Requester submits that Patent owner asserts that the claims are distinguished but fails to

reference specific claim language and fails to show how the claim language distinguishes the

prior art relied on in the Examiner's rejections. A rejection cannot be overcome by a generalized

assertion that the claim is patentable, and as such, the Patent owner's arguments fail. See 37

C.F.R. §1.111(b).

Examiner: The Examiner respectfully disagrees with Patent owner. In response to Patent owner

arguments against the references individually, one cannot show nonobviousness by attacking

references individually where the rejections are based on combinations of references. See *In re*

Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986).

He, Zenchelsky, APA, Fortinsky, Admitted Prior Art

Admitted Prior Art

PO: Patent owner argues that Applicant's admission that redirection servers are known is not an admission that redirection servers that respond or are configured in the manner recited in the claims are known.

TPR: Requester submits that the Examiner's rejections do not rely solely on the Admitted Prior Art to a "redirection server." Rather, the Examiner's rejections rely on the Admitted Prior Art to show that the redirection was a known technique for controlling access to resources on a public network. See Ex. CC at 5.

Examiner: The Examiner agrees with the Requester. In response to Patent owner arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Modifying the rule set during a session

PO: Patent owner argues that claims 28, 33, 52, and 64 do recite modifying the rule set. Each of these claims recites "...the redirection server is configured to utilize the temporary rule set during an initial period of time and thereafter to utilize the standard rule set.

TPR: Requester submits that these claims do not require modifying a rule set, but rather only changing form using one portion of an individualized rule set to using another portion. The

Examiner's rejection show this changing between temporary and standard rule sets, for example, through Zenchelsky's 1.) pre-rule base of general rules applied before authentication and 2.) local rule base of rules that are loaded after authentication. (See Ex. CC at 27-28; Zenchelsky 5:66-6:8; 6:35-39.)

Examiner: The Examiner agrees with the Requester. During reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (*In re Yamamoto*, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).

Redirection server to control access to the network itself and redirection server between the user and the network

PO: Patent owner asserts that processing in its broadest reasonable interpretation means controlling passage of the data and hence access to the public network.

The claims recite "a redirection server connected between the dial up network server and a public network."

TPR: Requester submits that even if the proposed interpretation was applied, Patent owner fails to explain how it would distinguish the claim over the prior art. That is, Zenchelsky teaches controlling access via a filter positioned between the user and the Internet. (See Ex. CC at 34-36.) The filter "regulate[s] the flow of information between users 51 and 53 and the hosts P, U, V, and W on the Internet." (Zenchelsky, 3:41-51.)

Examiner: The Examiner respectfully disagrees with the patent owner that processing is the broadest reasonable interpretation of controlling passage. Controlling is the act of regulating and

Zenchelsky teaches a filter that regulates data between users and the hosts (see col. 3, lines 41-

51).

Claims 40-42

PO: Patent owner submits that claims 40-42 are dependent from claim 25 and claim 25 recites

that the rule set programmed into the redirection server is "used to control data passing between

the user and a public network;" therefore, the ground for rejecting claims 40-42 should be

withdrawn.

TPR: Requester notes that the rejection showed that He taught a "credential sever 204

responsible for controlling network user credentials or privileges, which is essential for effective

network access control." (He, 12:66-13:1; Ex. CC at 4-5).

Examiner: The Examiner agrees with the Requester.

Claims 83 and 86-90

PO: Patent owner submits that claim 83 requires "a redirection server connected between a user

computer and the public network, the redirection server containing a user's rule set... wherein the

user's rule set contains at least one of a plurality of functions used to control data passing

between the user and a public network."

Also, Patentee states that Zenchelsky does not teach the redirection server, in response to

instructions such as from the programmed rule set, modifies at least a portion of the user's rule

set.

TPR: Requester notes that claim 83 does not recite modifying a user's rule set in response to

instructions *from the programmed rule set.* Instead, the claim recites "step of receiving

instructions by the redirection server to modify at least a portion of the user's rule set," but the claim is silent regarding the source of those instructions. The claim rejection showed how He teaches that an administrator can modify the user's rule set (see Ex. CC at 45, 25).

Examiner: The Examiner now agrees with patent owner. Claim 83 recites "the step of receiving instructions by the redirection server to modify at least a portion of the user's rule set through one or more of user side of the redirection server and the network side of the redirection server." The rejection relied upon He Fig. 10 and col. 17, lines 19-27 for teaching this limitation. Although He teaches automated modification of at least a portion of the rule set, the reference does not expressly teach "receiving instructions by the redirection server to modify at least a portion of the user's rule set." Instead, at column 17, lines 19-27, He discloses providing a database tool "for the system security administrator to create, delete, disable and modify a user account," but does not indicate that instructions to modify the user's rule set are received. Thus, the rejection for claims 83 and 86-90 in view of He, Zenchelsky, and the Admitted Prior Art is withdrawn.

Declaration under 37 CFR 1.131

The Declarations filed on June 28, 2013 from Moon Tai Yeung and Koichiro Ikudome have been considered, but are ineffective to overcome the Coss reference.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of Silverman reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite

means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

In this case, the claimed limitations are not discussed in the evidence provided. For instance, the claims recite "rule set" and "the redirection server is configured to allow automated modification of at least a portion of the rule set correlated the temporarily assigned network address," which is not described in the exhibits. The declaration "must establish possession of either the whole invention claimed or something falling within the claim (such as a species of a claimed genus) in the sense that the claim as a whole reads on it." MPEP 715.02. Further, the declaration does not provide a nexus between the evidence and the claims.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Coss reference to either a constructive reduction to practice or an actual reduction to practice. "Evidence in the form of exhibits may accompany the affidavit or declaration. Each exhibit relied upon should be specially referred to in the affidavit or declaration, in terms of what it is relied upon to show." MPEP 715.05. In this case, the declaration fails to explain which facts are being relied on to prove diligence. Also, Patent owner has failed to provide evidence to fully account for the time period during which due diligence must be established.

> An applicant must account for the entire period during which diligence is required. *GouM v. Schawlow*, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); *In re Harry*, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964)(statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. *In re Mulder*, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue); *Fitzgerald v. Arbib*, 268 F.2d 763, 766, 122 USPQ 530, 532 (CCPA 1959) (Less than 1 month of inactivity during critical period. Efforts to exploit an invention commercially do not

constitute diligence in reducing it to practice. An actual reduction to practice in the case of a design for a three-dimensional article requires that it should be embodied in some structure other than a mere drawing.); Kendall v. Searles, 173 F.2d 986, 993, 81 USPQ 363, 369 (CCPA 1949) (Diligence requires that applicants must be specific as to dates and facts.)

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Coss reference. To establish actual reduction to practice, a showing of the invention in a physical or tangible form that shows every element of the count. *Wetmore v. Quick*, 536 F.2d 937, 942, 190 USPQ 223, 227 (CCPA 1976). For an actual reduction to practice, the invention must have been sufficiently tested to demonstrate that it will work for its intended purpose, but it need not be in a commercially satisfactory stage of development. > See, e.g., *Scott v. Finney*, 34 F.3d 1058, 1062, 32 USPQ2d 1115, 1118-19 (Fed. Cir. 1994). MEPE 2138.05

Summary of Rejections

- Claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84, and 86-90 as being obvious over Willens in view of RFC 2138 and Stockwell;

- Claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84, and 86-90 as being obvious over Willens in view of RFC2138 and Admitted Prior Art;

- Claims 6, 7, 13, 14, 16-24, 26-44, 49-56, and 61-90 as being obvious over Radia in view of Wong '727 and further in view of Stockwell;

- Claims 2-5, 9-12, 45-48, and 57-60 as being obvious over Radia in view of Wong '727 and Stockwell and further in view of Wong '178;

- Claims 7, 14, 16-24, 50-56, and 62-90 as being obvious over Radia in view of Wong '727 and further in view of Admitted Prior Art;

- Claims 2-5, 9-12, 45-48, and 57-60 as being obvious over Radia in view of Wong '727 and Admitted Prior Art and in further view of Wong '178;

- Claims 2-7, 9-14, 28-35, 40-54, 56, 60-66 as being obvious over He, Zenchelsky, and Admitted Prior Art;

- Claims 2-7, 9-14, 28-35, 40-67, 83, and 86-90 as being obvious over He, Zenchelsky, Fortinksy and the Admitted Prior Art;

- Claims 2-7, 9-14, 28-35, and 44-67 as being obvious over Radia in view of Admitted Prior Art and in further view of Coss; and

- Claims 16-24, 26, 27, 36-43, and 68-90 as being obvious over Coss in view of Admitted Prior Art.

Claim Rejections - 35 USC § 103

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.

Claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84, and 86-90 are rejected under 35

U.S.C. 103(a) as being unpatentable over Willens in view of RFC 2138 and Stockwell.

The proposed rejection of claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84, and 86-90

(see Exhibit AA, pages 2-55) of the request is hereby incorporated by reference.

Claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84 and 86-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willens in view of RFC 2138 and Admitted Prior Art.

The proposed rejection of claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84 and 86-90 (see Exhibit AA, pages 56-112) of the request is hereby incorporated by reference.

Claims 6, 7, 13, 14, 16-24, 26-44, 49-56, and 61-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radia in view of Wong '727 and further in view of Stockwell.

The proposed rejection of claims 6, 7, 13, 14, 16-24, 26-44, 49-56, and 61-90 (see Exhibit BB, pages 2-47) of the request is hereby incorporated by reference.

Claims 2-5, 9-12, 45-48, and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radia in of Wong '727 and Stockwell and further in view of Wong '178.

The proposed rejection of claims 2-5, 9-12, 45-48, and 57-60 (see Exhibit BB, pages 48-53) of the request is hereby incorporated by reference.

Claims 7, 14, 16-24, 50-56, and 62-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radia in view of Wong '727 and further in view of Admitted Prior Art,

The proposed rejection of claims 7, 14, 16-24, 50-56, and 62-90 (see Exhibit BB, pages 55-102) of the request is hereby incorporated by reference.

Claims 2-5, 9-12, 45-48, and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radia in view of Wong '727 and Admitted Prior art and further in view of Wong '178.

The proposed rejection of claims 2-5, 9-12, 45-48, and 57-60 (see Exhibit BB, pages 103-109) of the request is hereby incorporated by reference.

Claims 2-7, 9-14, 28-35, 40-54, 56, are 60-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over He, Zenchelsky, and the Admitted Prior Art.

The proposed rejection of claims 2-7, 9-14, 28-35, 40-54, 56, and 60-66 (see Exhibit CC) of the request is hereby incorporated by reference with **modifications**.

The modification is to include an additional motivation to combine the references. The Examiner notes, as illustrated by the Board (see page 10 of previous reexamination proceeding – 90/009,301), "since redirection would have been an obvious extension of blocking, it follows that the combination of He and Zenchelsky in view of Ikudome's admission would have made redirection based on the same bases obvious as well."

Claims 2-7, 9-14, 28-35, 40-67, 83, and 86-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over He, Zenchelsky, Fortinsky and the Admitted Prior Art.

The proposed rejection of claims 2-7, 9-14, 28-35, 40-67, 83, and 86-90 (see Exhibit CC) of the request is hereby incorporated by reference.

Claims 2-7, 9-14, 28-35, and 44-67 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Radia in view of the Admitted Prior Art (APA) and in further in view of

Coss.

2. The system of claim 1, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further provides control over a plurality of data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose the *redirection server* further provides control over a plurality of data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"The latter embodiment can allow the firewall techniques of the invention to provide, for example, parental control of Internet and video access in the home." [2:57-60]

See FIG. 3, rule No. 10 controlling FTP data **to host B**, and rule No. 30 controlling Telnet data **from host B.**

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43] allowing the firewall 211 to control data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

3. The system of claim 1, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further blocks data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further blocks the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further blocks the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 3, rule No. 20 blocking data **from host A**; and FIG. 4, fifth session key rule (D, A, Telnet) blocking data **to host A**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', **'drop'**, or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to block (i.e., drop) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

4. The system of claim 1, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further allows the data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further allows the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further allows the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 4, first session key rule (A, B, TELNET) allowing data **to host B**, and second session key rule (B, A, TELNET) allowing data **from host B**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., **'pass'**, 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to allow (i.e., pass) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

5. The system of claim 1, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server further redirects the data to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further redirects the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"For some users and proxy applications, the connection should appear at the destination to be coming from the original source rather than the remote system. This applies, e.g., to services which check the source IP address to ensure that it matches the user who signed up for the requested service. **This capability is provided by "dual reflection" (or "two-way reflection"), with the source address of the outgoing connection changed back from the remote proxy to the original user's source address. This change is effected at the firewall, as each packet is received from the proxy and sent to the destination."** [9:6-16, emphasis added]

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or **'proxy'**" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one

known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

6. The system of claim 1, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server* further redirects the data from the users' computers *to multiple destinations* as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

For instance, Coss et al. disclose:

"1004: if the action indicates a remote proxy, the packet's destination address is replaced with the address of the remote proxy" [9:39-42]

"Proxy processes have also been developed for other special-purpose applications, e.g., to perform services such as **authentication, mail handling, and virus scanning.**" [1:45-49, emphasis added]

Coss et al. also gives examples of redirecting data to both a Telnet proxy and an FTP proxy. For example, Figure 3, rule No. 30 redirects TELNET data to a Telnet proxy server. Coss et al. further state, "For example, an FTP proxy **application** could use a dynamic rule to authorize establishment of an FTP data channel in response to a data request." It is inherent that data was also redirected to the FTP proxy application as a function of the individualized rule set.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data from the users' computers to multiple destinations as a function of the individualized rule set.

Additionally, Coss teaches "a computer network firewall can be instructed to redirect network session to a separate server for processing, so as to unburden the firewall application proxies. The server processes the redirected network session, and then passes the session back through the firewall to the intended original destination." See col. 2, lines 42-48.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

7. The system of claim 1, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

Radia et al. disclose that the database entries for a plurality of the plurality of the users' IDs are correlated with a common individualized rule set.

For instance, "In the above description, we have set a default profile called the default login profile. The default login profile is a static profile that **applies to ALL newly connected client systems.** This way the SMS does not need to be aware as new client systems are connected.

"One may also consider setting the default profile to a null profile and for each client system as the client system connects; for example, since a client system that connects may do a DHCP operation, this event can trigger the SMS to **set the login profile for the newly connected computer."** [3:23-33, emphasis added]

9. The method of claim 8, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further provides control over a plurality of data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose the step of controlling a plurality of data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"The latter embodiment can allow the firewall techniques of the invention to provide, for example, parental control of Internet and video access in the home." [2:57-60]

See FIG. 3, rule No. 10 controlling FTP data **to host B**, and rule No. 30 controlling Telnet data **from host B**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43] allowing the firewall 211 to control data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any

individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

10. The method of claim 8, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further blocks data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further blocks the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further blocks the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 3, rule No. 20 blocking data **from host A**; and FIG. 4, fifth session key rule (D, A, Telnet) blocking data **to host A**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', **'drop'**, or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to block (i.e., drop) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

11. The method of claim 8, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further allows the data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further allows the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further allows the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 4, first session key rule (A, B, TELNET) allowing data **to host B**, and second session key rule (B, A, TELNET) allowing data **from host B**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., **'pass'**, 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to allow (i.e., pass) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

12. The method of claim 8, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server further redirects the data to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further redirects the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"For some users and proxy applications, the connection should appear at the destination to be coming from the original source rather than the remote system. This applies, e.g., to services which check the source IP address to ensure that it matches the user who signed up for the requested service. **This capability is provided by "dual reflection" (or "two-way reflection"), with the source address of the outgoing connection changed back from the remote proxy to the original user's source address. This change is effected at the firewall, as each packet is received from the proxy and sent to the destination."** [9:6-16, emphasis added]

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or **'proxy'**" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

13. The method of claim 8, further including the step of redirecting the data from the users' computers to multiple destinations as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server* further redirects the data from the users' computers *to multiple destinations* as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

For instance, Coss et al. disclose:

"1004: if the action indicates a remote proxy, the packet's destination address is replaced with the address of the remote proxy" [9:39-42]

"Proxy processes have also been developed for other special-purpose applications, e.g., to perform services such as **authentication, mail handling, and virus scanning.**" [1:45-49, emphasis added]

Coss et al. also gives examples of redirecting data to both a Telnet proxy and an FTP proxy. For example, Figure 3, rule No. 30 redirects TELNET data to a Telnet proxy server. Coss et al. further state, "For example, an FTP proxy **application** could use a dynamic rule to authorize establishment of an FTP data channel in response to a data request." It is inherent that data was also redirected to the FTP proxy application as a function of the individualized rule set.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data from the users' computers to multiple destinations as a function of the individualized rule set.

Additionally, Coss teaches "a computer network firewall can be instructed to redirect network session to <u>a separate server</u> for processing, so as to unburden the firewall application proxies. The server processes the redirected network session, and then passes the session back <u>through the firewall to the intended original destination</u>." See col. 2, lines 42-48.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any

individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

14. The method of claim 8, further including the step of creating database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

Radia et al. disclose that the database entries for a plurality of the plurality of the users' IDs are correlated with a common individualized rule set.

For instance, "In the above description, we have set a default profile called the default login profile. The default login profile is a static profile that **applies to ALL newly connected client systems.** This way the SMS does not need to be aware as new client systems are connected.

"One may also consider setting the default profile to a null profile and for each client system as the client system connects; for example, since a client system that connects may do a DHCP operation, this event can trigger the SMS to **set the login profile for the newly connected computer." [3:23-33, emphasis added]**

28. The system of claim 1, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

Radia et al. disclose that the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) packet.

For instance, Radia et al. disclose:

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule 404 has a value that corresponds to an IP packet type, such as TCP,UDP, ICMP, etc. To match a particular filtering rule 404, an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule 404" [6:30-36, emphasis added]

Radia et al. also disclose that at least one rule forwards packets associated with a DNS (domain name service):

"The second of the login filtering profiles 400 forwards packets **associated with DNS (domain name service)** address resolution." [8:6-8,emphasis added]

However, Radia et al. do not explicitly disclose at least one rule as a function of *a type of IP service.*

Coss et al. disclose that the individual rule set includes at least one rule as a function of a type of IP service.

For instance, Coss et al. disclose:

"Service" column in rule table of Figure 3 providing rules as a function of types of IP services such as "FTP", "TELNET", and "MALL".

"As illustrated in FIG. 3, such a table can provide for categories including rule number, designations of source and destination hosts, a **designation of a special service which can be called for in a packet, and a specification of an action to be taken on a packet**. Special services can include proxy services, network address translation, and encryption, for example. In FIG. 3, the categories "Source Host," "Destination Host" and "Service" **impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet**." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

29. The system of claim 1, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

Radia et al. disclose the individualized rule set includes a default filter sequence for a newly connected client system that allows the newly connected client system to perform login. Radia et al. also disclose that after a user of the newly connected client logs in, the filter sequence associated with the client device is changed to another sequence. For example:

"The SMS maintains a series of filtering profiles, each of which includes one or more of filtering rules. **The SMS sets a default filter sequence for the newly connected client system** by downloading the sequence by the SMS to the ANCS .... Subsequently, the packet filter uses the rules of the login filtering profile sequence to selectively forward or discard IP packets originating from the client system. **This filtering sequence will allow newly connected client systems to perform login but nothing else**." [3:5- 22, emphasis added]

"A preferred embodiment of the present invention also generates or selects filtering profiles for users. With the login filtering profile sequence in place, a user can use the newly connected

client system to login to the network. The user login is monitored by the SMS. **If the user login is successful, the SMS selects or generates a user filtering profile sequence.** The user filtering profile sequence is then downloaded by the SMS to the ANCS ....**Subsequently, the new packet filter uses the rules of the user filtering profile sequence to selectively forward or discard IP packets originating from the client system."** [3:34-50, emphasis added]

However, Radia et al. do not explicitly disclose utilizing the login filtering *sequence for an initial period of time.* (Instead Radia et al. only disclose utilizing the login filtering sequence until the user logs in.)

Coss et al. disclose that the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the firewall 211 is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

For instance, Coss et al. discloses:

"Exemplary dynamic rules include a 'one-time' rule which is only used for a single session, a **time-limited rule which is used only for a specified time period,** and a threshold rule which is used only when certain conditions are satisfied." [8:37-40, emphasis added]

Accordingly, Coss et al. disclose utilizing an initial rule set being a set of rules including the time-limited rule before the specified time period has expired, and utilizing a standard rule set being the set of rules not including the time-limited rule after the specified time period has expired.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

30. The system of claim 1, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

Radia et al. disclose that the individualized rule set includes at least one rule allowing access based on a type of IP (Internet Protocol) packet and destination address.

For instance, Radia et al. disclose:

"In FIG. 5, it may be seen that each filtering rule 404 includes an action 500. Action 500 specifies the disposition of IP packets that match by a particular filtering rule 404. In particular, **action 500 may indicate that a matched IP packet will be** forwarded, or that a matched IP packet will be discarded." [6:14-18]

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule *404* has a value that corresponds to an IP packet type, such as TCP, UDP, ICMP, etc. To match a particular filtering rule *404,* an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule *404"* [6:30-36, emphasis added]

"Filtering rule *404* also includes a destination IP address 502 and a destination IP mask *504.* Destination IP address 502 corresponds to the destination address included in the header of an IP packet. Destination IP mask *504* is similar to destination IP address 502 but corresponds to a range of destination addresses. To match a particular filtering rule *404,* an IP packet must either have a destination address that matches the destination address 502 included in the filtering rule *404* or have a destination address that is covered by the destination address mask *504* of the filtering rule *404."* [6:18-29, emphasis added]

However, Radia et al. do not explicitly disclose the individualized rule set includes at least one rule allowing access based on *a request type* and a destination address.

Coss et al. disclose that the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

For instance, Coss et al. disclose:

Rule No. 40 in Figure 3 allowing access (i.e., action= "PASS") based on a request type of "MAIL" and a destination host of "D".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

31. The system of claim 1, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

Radia et al. do not explicitly disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

However, Coss et al. disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

For instance, Coss et al. disclose:

Rule No. 30 in Figure 3 redirecting data (i.e., action = "PROXY") based on a request type of "TELNET" and attempted destination host of "C".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

32. The method of claim 8, wherein the individualized rule set includes at least one rule as a function of type of IP (Internet Protocol) service.

Radia et al. disclose that the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) packet.

For instance, Radia et al. disclose:

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule 404 has a value that corresponds to an IP packet type, such as TCP,UDP, ICMP, etc. To match a particular filtering rule 404, an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule 404" [6:30-36, emphasis added]

Radia et al. also disclose that at least one rule forwards packets associated with a DNS (domain name service):

"The second of the login filtering profiles 400 forwards packets **associated with DNS (domain name service)** address resolution." [8:6-8, emphasis added]

However, Radia et al. do not explicitly disclose at least one rule as a function of *a type of IP service.*

Coss et al. disclose that the individual rule set includes at least one rule as a function of a type of IP service.

For instance, Coss et al. disclose:

"Service" column in rule table of Figure 3 providing rules as a function of types of IP services such as "FTP", "TELNET", and "MALL".

"As illustrated in FIG. 3, such a table can provide for categories including rule number, designations of source and destination hosts, a **designation of a special service which can be called for in a packet, and a specification of an action to be taken on a packet.** Special services can include proxy services, network address translation, and encryption, for example. In FIG. 3, the categories "Source Host," "Destination Host" and "Service" **impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet."** [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

33. The method of claim 8, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

Radia et al. disclose the individualized rule set includes a default filter sequence for a newly connected client system that allows the newly connected client system to perform login. Radia et al. also disclose that after a user of the newly connected client logs in, the filter sequence associated with the client device is changed to another sequence. For example: ⟩

"The SMS maintains a series of filtering profiles, each of which includes one or more of filtering rules. **The SMS sets a default filter sequence for the newly connected client system** by downloading the sequence by the SMS to the ANCS .... Subsequently, the packet filter uses the rules of the login filtering profile sequence to selectively forward or discard IP packets originating from the client system. **This filtering sequence will allow newly connected client systems to perform login but nothing else.**" [3:5- 22, emphasis added]

"A preferred embodiment of the present invention also generates or selects filtering profiles for users. With the login filtering profile sequence in place, a user can use the newly connected

client system to login to the network. The user login is monitored by the SMS. **If the user login is successful, the SMS selects or generates a user filtering profile sequence.** The user filtering profile sequence is then downloaded by the SMS to the ANCS ....**Subsequently, the new packet filter uses the rules of the user filtering profile sequence to selectively forward or discard IP packets originating from the client system."** [3:34-50, emphasis added]

However, Radia et al. do not explicitly disclose utilizing the login filtering *sequence for an initial period of time.* (Instead Radia et al. only disclose utilizing the login filtering sequence until the user logs in.)

Coss et al. disclose that the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the firewall 211 is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

For instance, Coss et al. disclose:

"Exemplary dynamic rules include a 'one-time' rule which is only used for a single session, <u>a time-limited rule which is used only for a specified time period,</u> and a threshold rule which is used only when certain conditions are satisfied." [8:37-40, emphasis added]

Accordingly, Coss et al. disclose utilizing an initial rule set being a set of rules including the time-limited rule before the specified time period has expired, and utilizing a standard rule set being the set of rules not including the time-limited rule after the specified time period has expired.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

34. The method of claim 8, wherein the individual rule set includes at least one rule allowing access based on a request type and a destination address.

Radia et al. disclose that the individualized rule set includes at least one rule allowing access based on a type of IP (Internet Protocol) packet and destination address.

For instance, Radia et al. disclose:

"In FIG. 5, it may be seen that each filtering rule 404 includes an action 500. Action 500 specifies the disposition of IP packets that match by a particular filtering rule 404. In particular, **action 500 may indicate that a matched IP packet will be** forwarded, or that a matched IP packet will be discarded." [6:14-18]

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule *404* has a value that corresponds to an IP packet type, such as TCP, UDP, ICMP, etc. To match a particular filtering rule *404,* an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule *404"* [6:30-36, emphasis added]

"Filtering rule *404* also includes a destination IP address 502 and a destination IP mask *504.* Destination IP address 502 corresponds to the destination address included in the header of an IP packet. Destination IP mask *504* is similar to destination IP address 502 but corresponds to a range of destination addresses. To match a particular filtering rule *404,* an IP packet must either have a destination address that matches the destination address 502 included in the filtering rule *404* or have a destination address that is covered by the destination address mask *504* of the filtering rule *404."* [6:18-29, emphasis added]

However, Radia et al. do not explicitly disclose the individualized rule set includes at least one rule allowing access based on *a request type* and a destination address.

Coss et al. disclose that the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

For instance, Coss et al. disclose:

Rule No. 40 in Figure 3 allowing access (i.e., action= "PASS") based on a request type of "MAIL" and a destination host of "D".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

35. The method of claim 8, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

Radia et al. do not explicitly disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

However, Coss et al. disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

For instance, Coss et al. disclose:

Rule No. 30 in Figure 3 redirecting data (i.e., action = "PROXY") based on a request type of "TELNET" and attempted destination host of "C".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

44. A system comprising:

Radia et al. Figure 1: computer network 100 is a system

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

Radia et al. Figure 3: filtering profiles 316 are a database with entries correlating each of a plurality of user IDs with an individualized rule set

For instance, Radia et al. disclose:

"In step 908, which follows, a sequence of **filtering profiles 400 associated with the user** are retrieved, by SMS 114, from **filtering profile database** 316. In general, it may be appreciated that various users of network 100 will have varying types of allowed access. As a result, **different network users will require different filtering profiles 400. Generally, these filtering profiles 400 are defined separately for each user** using either automatic or manual generation techniques. For the present invention, **these filtering profiles 400 are preferably maintained in filtering profile database 316 and retrieved using the identity of the particular user."** [9:46-56, emphasis added]

a dial-up network server that receives user IDs from users' computers;

Radia et al. disclose in Figure 1 that modems 104 (which may be telephone - i.e., dial-up) and DHCP server 110 establish a communications link with the user's PC. A login applet on the user's computer (one of PCs 102) communicates with a login server and allows users to login to the network 100.

For instance, Radia et al. disclose:

"A **cable modem** 104 is connected to each client system 102." [1:11-12, emphasis added]

"For example, an internet service provider (ISP) may have users who connect, login, logoff and disconnect to its network over time **using telephone or able modems.**" [2:45-48, emphasis added]

"The client systems, which are typically personal computers using cable modems, connect to the router. **As part of the connection process, each client system receives a dynamically allocated IP address**"

For a preferred embodiment of network 100, user logins are handled by downloading small, specifically tailored applications, known as "login applets," to client systems 102. The login applets are downloaded from a server system, such as server system 108, or in some cases, from SMS 114." [8:30-34, emphasis added]

"More specifically, as discussed with regard to method 700, for a preferred embodiment of network 100, **users login to network 100 using a login applet that communicates with a login server, such as SMS 114.**" [9:39-42, emphasis added]

However, Radia et al. do not explicitly disclose a *dial-up network server* that receives user IDs from users' computers.

Admitted prior art (APA) systems in Figure 1 of the '118 patent include a dial-up networking server 102 that receives user IDs from users' computers 100.

The APA systems are described as follows:

"In prior art systems as shown in FIG. 1 when an Internet user establishes a connection with an Internet Service Provider (ISP), the user first makes a physical connection between their computer 100 and a dial-up networking server 102, the user provides to the dial-up networking server their user ID and password. The dial-up networking server then passes the user ID and password, along with a temporary Internet Protocol (IP) address for use by the user to the ISP's authentication and accounting server 104. A detailed description of the IP communications protocol is discussed in Internetworking with TCP/IP, 3rd ed., Douglas Comer, Prentice Hall, 1995, which is fully incorporated herein by reference. The authentication and accounting server, upon verification of the user ID and password using a database 106 would send an authorization message to the dial-up networking server 102 **to allow the user to use the temporary IP**

address assigned to that user by the dial-up networking server and then logs the connection and assigned IP address." [" 118 patent, col. 1, lines 15-37, emphasis added]

It would have been obvious to substitute the DHCP server 110 and login applet disclosed by Radia et al. with the dial-up networking server 102 included in the APA systems to thereby obtain the predictable results of: 1) allowing dial-up users to login through the dial-up networking server rather than through an applet running on the user's computer, and 2) assigning a temporary IP address to the user's computer by the dial-up networking server 102 rather than by the DHCP server 110.

a redirection server connected between the dial-up network server and a public network, and

Radia et al. Figure 1 : router 106 is connected between the dial-up network server (substituted for DHCP server 110 and login applet) and server systems 108 of the network 100. Router 106 is similar to a redirection server because router 106 is connected between the user's computer (PC 102) and the network's server systems 108, and control the user's access to the network's server systems 108.

Radia et al. further disclose that the network is a public network such as the Internet:

"For example, assume that a company uses a router to link its internal intranet with an external network **such as the Internet.**" **[2:5-7,** emphasis added]

However, Radia et al. do not explicitly disclose the router 106 controls the user's access to the public network *by utilizing redirection functionality.*

Coss et al. disclose a firewall that is connected between a user's computer and a public network that controls the user's access to the network by utilizing redirection functionality:

"FIG. 2 shows a user site 201 connected to the Internet 105 via a firewall processor 211." [3:53-54]

"This invention relates to the **prevention of unauthorized access in computer networks** and, more particularly, to firewall protection within computer networks." [1:6-8, emphasis]

"Dynamic rules are rules which are included with the access rules as a need arises, for processing along with the access rules, e.g., by a rule processing engine. Dynamic rules can include unique, current information such as, for example, specific source and destination port numbers. They **can be loaded at any time by trusted parties, e.g., a trusted application, remote proxy or firewall administrator, to authorize specific network sessions."** [8:24-31, emphasis added]

"To unburden the firewall of application proxies, the firewall can be enabled to redirect a network session to a separate server for processing." [Abstract, emphasis added]

"Proxy reflection in accordance with the present invention involves redirecting a network session to another, "remote" proxy server for processing, and then later passing it back via the firewall to the intended destination. When a new session enters the firewall, a decision is made to determine whether service by a proxy server is required. If so, **the firewall replaces the destination address in the packet with the host address of the proxy application and, if necessary, it can also change the service port."** [Coss et al., col. 8, lines 56-65, emphasis added]

It would have been obvious to replace the router 106 of Radia et al. with the firewall 211 of Coss et al. to not only allow discarding and forwarding traffic as taught by Radia et al., but to also allow controlling the user's access to the network by redirecting traffic at the firewall 211 to thereby prevent the router 106 from having to utilize application proxies, as suggested by Coss et al.

Radia et al. further disclose that other networking technologies may be used instead of router 106, stating:

"The use of cable router 106 and cable modems 104 is also intended to be exemplary and it should be appreciated **that other networking technologies and topologies are equally practical."** [1:13-16, emphasis added]

Therefore, it would have been further obvious to a person of ordinary skill in the art that the firewall 211 of Coss et al. could substitute the router 106 because the firewall 211 disclosed by Coss et al. is another type of networking technology and Radia et al. suggest other types of network technology is equally practical.

It would have been further obvious that simple substitution of the known firewall 211 for the router 106 obtains predictable results that the network 100 of Radia et al. may now benefit from the redirection functionality included in firewall 211.

an authentication accounting server connected to the database, the dial-up network server and the redirection server;

In Radia et al. Figure 1, access network control server ANCS 112 and services management system SMS 114 together are an authentication accounting server because ANCS 112 and SMS 114 are connected to the database (filtering profiles 316 within SMS 114 - see Figure 3), the dial-up network server (substituted for DHCP server 110 and login applet), and the redirection server (Coss' firewall 211 in the position of router 106 in Radia's FIG. 1).

Radia et al. further disclose that the ANCS 112 and SMS 114 determine whether a user ID is authorized to access the network.

For instance, Radia et al. disclose:

"FIG. 9 is a flowchart showing the steps associated with a preferred embodiment of a method for **allocation of privileges to a user in a computer network.**" [4:59-61, emphasis added]

"Method 900 includes step performed by SMS 114 **and** ANCS 112." [9:35-36, emphasis added]

"In step 908, which follows, a sequence of filtering profiles 400 associated with **the user** are retrieved by SMS 114, from filtering profile database 316. In general, it may be appreciated that **various users of network 100 will have varying types of allowed access.**" [9:46-50, emphasis added]

"In FIG. 1, ANCS 112 and SMS 114 are shown as separate entities. It should be appreciated, however that the present invention specifically anticipates **that ANCS 112 and SMS 114 may be implemented using a single computer system** that includes ANCS process 214, SMS process 314 and filtering profile database 316." [5:65-6:4, emphasis added]

wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server;

Radia et al. disclose a login applet on a PC 102 and the DHCP server 110 respectively communicate a first user ID (entered using the login applet) for one of the users' computers (one of PCs 102) and a temporarily assigned network address (dynamically assigned IP address) for the first user ID to the authentication accounting server (SMS 114).

For instance, Radia et al. disclose the login applet communicates from PC 102 to SMS 114:

"Method 900 begins with step 906 where SMS 114 **waits for a user login.** More specifically, as discussed with regard to method 700, for a preferred embodiment of network 100, **users login to network 100 using a login applet that communicates with a login server, such as SMS 114**" [9:37-42, emphasis added]

Radia et al. also disclose the DHCP server 110 passes the temporarily assigned network address for the first user ID to the SMS 114:

"Method 700 begins with step 706 where **SMS 114 waits for the allocation of an IP address to a client system** 102. More specifically, for a preferred embodiment of network 100, power-on or reset of a client system 102 is followed by connection of the client system 102 to router 106. As part of this connection, the connecting client system 102 requests and receives a dynamically allocated IP address from DHCP server 110. This allocation requires that a number of messages pass between DHCP server 110 and the client system 102 requesting a new IP address. The last of these messages is a DHCPACK message sent by the DHCP server 110 to the client system 102. **To monitor the allocation of IP addresses, SMS 114 monitors DHCP messages within network 100.** Step 706 corresponds, in a general sense, to the methods and procedures that are

executed by SMS 114 to wait for and detect DHCPACK messages within network 100." [7:21-34, emphasis added]

With reference to FIG. 9, it is inherent that the SMS 114 also receives the IP address of the client system 102 from the dial-up network server because Radia et al. disclose "At the same time, **the IP address of the client system 102 acting as a host for the user is passed by the SMS 114 to the** ANCS 112." [9:62-64, emphasis added]

Radia et al. further disclose that the IP address of the client system (one of PCs 102) is temporarily assigned:

"More specifically, in systems that use the DHCP protocol for allocation of IP addresses, each IP address is allocated for a finite period of time. Systems that do not renew their IP address leases may lose their allocated IP addresses." [7:51-55, emphasis added]

However, Radia et al. do not explicitly disclose that *the dial-up network server* communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server.

In the admitted prior art (APA) system of FIG. 1, the dial-up network server 102 communicates a first user ID for one of the users' computers 100 and a temporarily assigned network address for the first user ID to the authentication accounting server 104.

For instance, the APA systems are described as follows:

"The dial-up networking server then passes the user ID and password, along with a temporary Internet Protocol (IP) address for use by the user to the ISP's authentication and accounting server 104." ['118 patent, Col. 1, lines 15-37, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the APA dial-up networking server 102 for the DHCP 110 and login applet in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. dial-up networking server 102) for another (DHCP server and login applet) producing a predictable result renders the claim obvious.

It would further have been obvious that the dial-up network server should continue to behave in this way because, rather than the SMS 114 receiving the user ID and IP address respectively from the login applet and DHCP server 110, the SMS 114 would receive this information from the dial-up networking server, as suggested by the APA.

wherein the authentication accounting server accesses the database and communicates the individualized rule set that correlates with the first set that correlates with the first user ID and the temporary assigned network address to the redirection server; and

Radia et al. disclose the ANCS 112 and SMS 114 access the database 316 and communicate the individualized rule set (sequence of filtering profiles 400) that correlates with the first user ID (identity of the user) and the temporarily assigned network address (dynamic IP address) to the router 106.

For instance, Radia et al. disclose:

FIG. 9: step 906 "wait for user login", step 908 "retrieve user filter profile from database", step 910 "download user profile to ancs", and step 920 "reconfigure network components"

"In step 908, which follows, a sequence of filtering profiles 400 associated with the user are retrieved, by SMS 114, from filtering profile database 316".
[9:46-48, emphasis added]

"For the present invention, these filtering profiles400 are preferably maintained in filtering profile database 316 and **retrieved using the identity of the particular user.**" [9:53 -56, emphasis added]

"Step 908 is followed by step 910 where the sequence of user filtering profiles 400 is downloaded by SMS 114 to ANCS 112. At the same time, the IP address of the client system 102 acting as a host for the user is passed by the SMS 114 to the ANCS 112." [9:60-64, emphasis added]

"In the following step, the ANCS 112 uses each of the filtering rules 404 included in the sequence of user filtering profiles 400 **to establish a packet filter for IP packets originating from the client system 102 acting as a host for the user.**" [9:64-10:1, emphasis added]

"The packet filter is established by reconfiguring one or more of the components of the network 100 that forward packets originating at the client system 102 acting as a host for the user. For example, in some cases, the packet filter may be established by reconfiguring the modem 104 connected to the client system 102. Alternatively, the packet filter may be established by reconfiguring router 106." [10:1-7, emphasis added]

It is inherent that the "packet filter for IP packets originating from the client system 102" communicated to the router 106 includes the temporarily assigned (i.e., dynamic) IP address of the client system 102 in order to identify the IP packets originating from the client system 102.

However, Radia et al. do not explicitly disclose the ANCS 112 and SMS 114 access the database 316 and communicate the individualized rule set that correlates with the first user ID and the temporarily assigned network address *to the redirection server.*

It would have been obvious to have the ANCS 112 and SMS 114 access the database 316 and communicate the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the firewall 211 of Coss et al. A first reason is Radia et al. teach

reconfiguring one or more network components that forward packets originating at the client system 102, and the firewall 211 of Coss et al. is a network component that forwards packets originating at a client system. As such, Radia et al. suggest reconfiguring the firewall 211.

It would have further been obvious to use a known technique (i.e., communicating an individualized rule set to thereby reconfiguring a router 106) to improve a similar device (firewall 211) in the same way.

Additionally, Coss et al. disclose dynamic rules can be loaded into the firewall 211 at any time by trusted applications to thereby authorize specific network sessions. For instance, Coss et al. teach:

"Dynamic rules can include unique, current information such as, for example, specific source and destination port numbers. They can be loaded at any time by trusted parties, e.g., a trusted application, remote proxy or firewall administrator, to authorize specific network sessions." [8:26-31, emphasis added]

It therefore would have further been obvious to have the ANCS 112 communicate the individualized rule set to the firewall 211 of Coss et al. because the ANCS 112 is a trusted application that authorizes specific network sessions, as suggested by Coss et al.

wherein data directed toward the public network from the one of the users' computers are processed by the redirection server according to the individualized rule set.

Radia et al. disclose that data directed toward the public network from the one of the users' computers (one of PCs 102) are processed by the router 106 according to the individualized rule set.

For instance, Radia et al. disclose:

"Subsequently, the packet filter established by the ANCS 112 is used to filter IP packets that originate from the client system 102 acting as a host for the user, allowing the packets that are associated with the network privileges of the user." [10:11-14, emphasis added]

However, Radia et al. do not explicitly disclose that data directed toward the public network from the one of the user's computers is processed *by the redirection server* according to the individualized rule set.

Coss et al. disclose data directed toward the public network from the one of the users' computers are processed by firewall 211 according to the individualized rule set.

For instance, Coss et al. disclose:

"In accordance with a fourth aspect of the invention, a computer network firewall may make use of dynamic rules which are added to a set of access rules for processing packets." [2:29-32, emphasis added]

"With a capability for supporting multiple security domains, **a single firewall can support multiple users, each with a separate security policy.**" [3:31-34, emphasis added]

"The particular rule set that is applied for any packet can be determined based on information such as the **incoming and outgoing network interfaces** as well as the **network source and destination addresses.**" [1:67-2:4, emphasis added]

It would have been obvious that when substituting router 106 in the network of Radia et al. with the firewall 211 of Coss et al., subsequent to the firewall 211 of Coss et al. being reconfigured by the ANCS 112, data directed toward the public network from the one of the user's computers would be processed by the firewall 211 according to the individualized rule set.

A first reason is the ANCS 112 is disclosed to reconfigure the router 106 to process data in this way, and the firewall 211 is simply another type of networking component. In other words, simple substitution of the known firewall 211 for the router 106 obtains predictable results that the firewall 211 is reconfigured to process data directed toward the public network in the same way.

Another reason is it would have been obvious to use a known technique (reconfiguring a router 106 to process outgoing data according to the individualized rule set) to improve a similar device (firewall 211) in the same way.

45. The system of claim 44, wherein the redirection server further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further provides control over a plurality of data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose the *redirection server* further provides control over a plurality of data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"The latter embodiment can allow the firewall techniques of the invention to provide, for example, parental control of Internet and video access in the home." [2:57-60]

See FIG. 3, rule No. 10 controlling FTP data **to host B**, and rule No. 30 controlling Telnet data **from host B.**

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43] allowing the firewall 211 to control data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

46. The system of claim 44, wherein the redirection server further blocks the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further blocks data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further blocks the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further blocks the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 3, rule No. 20 blocking data **from host A**; and FIG. 4, fifth session key rule (D, A, Telnet) blocking data **to host A**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', **'drop'**, or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to block (i.e., drop) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one

known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

47. The system of claim 44, wherein the redirection server further allows the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further allows the data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further allows the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further allows the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 4, first session key rule (A, B, TELNET) allowing data **to host B**, and second session key rule (B, A, TELNET) allowing data **from host B**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., **'pass'**, 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to allow (i.e., pass) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

48. The system of claim 44, wherein the redirection server further redirects the data to and from the users' computers as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server further redirects the data to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further redirects the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"For some users and proxy applications, the connection should appear at the destination to be coming from the original source rather than the remote system. This applies, e.g., to services which check the source IP address to ensure that it matches the user who signed up for the requested service. **This capability is provided by "dual reflection" (or "two-way reflection"), with the source address of the outgoing connection changed back from the remote proxy to the original user's source address. This change is effected at the firewall, as each packet is received from the proxy and sent to the destination.**" [9:6-16, emphasis added]

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

49. The system of claim 44, wherein the redirection server further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server* further redirects the data from the users' computers *to multiple destinations* as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

For instance, Coss et al. disclose:

"1004: if the action indicates a remote proxy, the packet's destination address is replaced with the address of the remote proxy" [9:39-42]

"Proxy processes have also been developed for other special-purpose applications, e.g., to perform services such as **authentication, mail handling, and virus scanning.**" [1:45-49, emphasis added]

Coss et al. also gives examples of redirecting data to both a Telnet proxy and an FTP proxy. For example, Figure 3, rule No. 30 redirects TELNET data to a Telnet proxy server. Coss et al. further state, "For example, an FTP proxy **application** could use a dynamic rule to authorize establishment of an FTP data channel in response to a data request." It is inherent that data was also redirected to the FTP proxy application as a function of the individualized rule set.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data from the users' computers to multiple destinations as a function of the individualized rule set.

Additionally, Coss teaches "a computer network firewall can be instructed to redirect network session to a separate server for processing, so as to unburden the firewall application proxies. The server processes the redirected network session, and then passes the session back through the firewall to the intended original destination." See col. 2, lines 42-48.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

50. The system of claim 44, wherein the database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

Radia et al. disclose that the database entries for a plurality of the plurality of the users' IDs are correlated with a common individualized rule set.

For instance, "In the above description, we have set a default
profile called the default login profile. The default login profile is a static profile that **applies to** ALL **newly connected client systems.** This way the SMS does not need to be aware as new client systems are connected.

"One may also consider setting the default profile to a null profile and for each client system as the client system connects; for example, since a client system that connects may do a DHCP operation, this event can trigger the SMS to **set the login profile for the newly connected computer."** [3:23-33, emphasis added]

51. The system or claim 44, wherein the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) service.

Radia et al. disclose that the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) packet.

For instance, Radia et al. disclose:

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule 404 has a value

that corresponds to an IP packet type, such as TCP,UDP, ICMP, etc. To match a particular filtering rule 404, an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule 404" [6:30-36, emphasis added]

Radia et al. also disclose that at least one rule forwards packets associated with a DNS (domain name service):

"The second of the login filtering profiles 400 forwards packets **associated with DNS (domain name service)** address resolution." [8:6-8,emphasis added]

However, Radia et al. do not explicitly disclose at least one rule as a function of *a type of IP service.*

Coss et al. disclose that the individual rule set includes at least one rule as a function of a type of IP service.

For instance, Coss et al. disclose:

"Service" column in rule table of Figure 3 providing rules as a function of types of IP services such as "FTP", "TELNET", and "MALL".

"As illustrated in FIG. 3, such a table can provide for categories including rule number, designations of source and destination hosts, a **designation of a special service which can be called for in a packet, and a specification of an action to be taken on a packet.** Special services can include proxy services, network address translation, and encryption, for example. In FIG. 3, the categories "Source Host," "Destination Host" and "Service" **impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet."** [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

52. The system of claim 44, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

Radia et al. disclose the individualized rule set includes a default filter sequence for a newly connected client system that allows the newly connected client system to perform login. Radia et

al. also disclose that after a user of the newly connected client logs in, the filter sequence associated with the client device is changed to another sequence. For example:

"The SMS maintains a series of filtering profiles, each of which includes one or more of filtering rules. **The SMS sets a default filter sequence for the newly connected client system** by downloading the sequence by the SMS to the ANCS .... Subsequently, the packet filter uses the rules of the login filtering profile sequence to selectively forward or discard IP packets originating from the client system. **This filtering sequence will allow newly connected client systems to perform login but nothing else**." [3:5- 22, emphasis added]

"A preferred embodiment of the present invention also generates or selects filtering profiles for users. With the login filtering profile sequence in place, a user can use the newly connected client system to login to the network. The user login is monitored by the SMS. **If the user login is successful, the SMS selects or generates a user filtering profile sequence.** The user filtering profile sequence is then downloaded by the SMS to the ANCS ....**Subsequently, the new packet filter uses the rules of the user filtering profile sequence to selectively forward or discard IP packets originating from the client system."** [3:34-50, emphasis added]

However, Radia et al. do not explicitly disclose utilizing the login filtering *sequence for an initial period of time.* (Instead Radia et al. only disclose utilizing the login filtering sequence until the user logs in.)

Coss et al. disclose that the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the firewall 211 is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

For instance, Coss et al. disclose:

"Exemplary dynamic rules include a 'one-time' rule which is only used for a single session, a **time-limited rule which is used only for a specified time period,** and a threshold rule which is used only when certain conditions are satisfied." [8:37-40, emphasis added]

Accordingly, Coss et al. disclose utilizing an initial rule set being a set of rules including the time-limited rule before the specified time period has expired, and utilizing a standard rule set being the set of rules not including the time-limited rule after the specified time period has expired.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one

known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

53. The system of claim 1, wherein the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

Radia et al. disclose that the individualized rule set includes at least one rule allowing access based on a type of IP (Internet Protocol) packet and destination address.

For instance, Radia et al. disclose:

"In FIG. 5, it may be seen that each filtering rule 404 includes an action 500. Action 500 specifies the disposition of IP packets that match by a particular filtering rule 404. In particular, **action 500 may indicate that a matched IP packet will be** forwarded, or that a matched IP packet will be discarded." [6:14-18]

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule *404* has a value that corresponds to an IP packet type, such as TCP, UDP, ICMP, etc. To match a particular filtering rule *404,* an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule *404"* [6:30-36, emphasis added]

"Filtering rule *404* also includes a destination IP address 502 and a destination IP mask *504.* Destination IP address 502 corresponds to the destination address included in the header of an IP packet. Destination IP mask *504* is similar to destination IP address 502 but corresponds to a range of destination addresses. To match a particular filtering rule *404,* an IP packet must either have a destination address that matches the destination address 502 included in the filtering rule *404* or have a destination address that is covered by the destination address mask *504* of the filtering rule *404."* [6:18-29, emphasis added]

However, Radia et al. do not explicitly disclose the individualized rule set includes at least one rule allowing access based on *a request type* and a destination address.

Coss et al. disclose that the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

For instance, Coss et al. disclose:

Rule No. 40 in Figure 3 allowing access (i.e., action= "PASS") based on a request type of "MAIL" and a destination host of "D".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

54. The system of claim 44, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

Radia et al. do not explicitly disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

However, Coss et al. disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

For instance, Coss et al. disclose:

Rule No. 30 in Figure 3 redirecting data (i.e., action = "PROXY") based on a request type of "TELNET" and attempted destination host of "C".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

55. The system of claim 44, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet protocol) packet header by a second destination address as a function of the individualized rule set.

Radia et al. do not disclose that the redirection server is configured to redirect data from the users computers by replacing a first destination address in an IP (Internet protocol) packet header by a second destination address as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet protocol) packet header by a second destination address as a function of the individualized rule set.

For instance, Coss et al. disclose:

"As illustrated in FIG. 3, such a table can provide for categories including rule number, designations of source and destination hosts, a designation of a special service which can be called for in a packet, **and a specification of an action to be taken on a packet.**" [4:1-6, emphasis added]

"1004: if the action indicates a remote proxy, the packet's destination address is replaced with the address of the remote proxy; if configured, the destination port can be changed as well; the original packet header data is recorded in the session cache along with any changed values;" [9:39-44, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

56. In a system comprising

Radia et al. Figure 1: computer network 100 is a system

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

Radia et al. Figure 3: filtering profiles 316 are a database with entries correlating each of a plurality of user IDs with an individualized rule set.

For instance, Radia et al. disclose:

"In step 908, which follows, **a sequence of filtering profiles 400 associated with the user** are retrieved, by SMS 114, from **filtering profile database 316.** In general, it may be appreciated that various users of network 100 will have varying types of allowed access. As a result, different **network users will** require different **filtering** profiles 400. Generally, these filtering profiles 400 are defined separately for each user using either automatic or manual generation techniques. For the present invention, these filtering profiles 400 are preferably **maintained in** filtering profile **database 316 and retrieved using the identity of the particular** user." [9:46-56, emphasis added]

a dial-up network server that receives user IDs from users' computers;

Radia et al. disclose in Figure 1 that modems 104 (which may be telephone - i.e., dial-up) and DHCP server 110 establish a communications link with the user's PC. A login applet on the user's computer (one of PCs 102) allows users to login to the network 100.

For instance, Radia et al. disclose:

"A **cable modem** 104 is connected to each client system 102." [1:11-12, emphasis added]

"For example, an internet service provider (ISP) may have users who connect, login, logoff and disconnect to its network over time **telephone or able modems."** [2:45-48, emphasis added]

"The client systems, which are typically personal computers using cable modems, connect to the router. **As part of the connection process, each client system receives a dynamically allocated IP address from the DHCP server."** [2:67-3:4, emphasis added]

"For a preferred embodiment of network 100, user logins are handled by downloading small, specifically tailored applications, known as "login applets," to client systems 102. The login applets are downloaded from a server system, such as server system 108, or in some cases, from SMS 114." [8:30-34, emphasis added]

"More specifically, as discussed with regard to method 700, for a preferred embodiment of network 100, **users login to network 100 using a login applet that communicates with a login server, such as SMS 114."** [9:39-42, emphasis added]

However, Radia et al. do not explicitly disclose a *dial-up network server* that receives user IDs from users' computers.

Admitted prior art (APA) systems in Figure 1 of the '118 patent include a dial-up networking server 102 that receives user IDs from users' computers 100.

The APA systems are described as follows:

"In prior art systems as shown in FIG. 1 when an Internet user establishes a connection with an Internet Service Provider (ISP), **the user first makes a physical connection between their computer 100 and a dial-up networking server 102, the user provides to the dial-up networking server their user ID and password.** The dial-up networking server then passes the user ID and password, along with a temporary Internet Protocol (IP) address for use by the user to the ISP's authentication and accounting server 104. A detailed description of the IP communications protocol is discussed in Internetworking with TCP/IP, 3rd ed., Douglas Comer, Prentice Hall, 1995, which is fully incorporated herein by reference. The authentication and accounting server, upon verification of the user ID and password using a database 106 would

send an authorization message to the dial-up networking server 102 **to allow the user to use the temporary IP address assigned to that user by the dial-up networking server** and then logs the connection and assigned IP address." [" 118 patent, 1st paragraph of Background of the Invention section, emphasis added]

It would have been obvious to substitute the DHCP server 110 and login applet disclosed by Radia et al with the dial-up networking server 102 included in the APA systems to thereby obtain the predictable results of: 1) allowing dial-up users to login through the dial-up networking server rather than through at applet running on the user's computer, and 2)
assigning a temporary IP address to the user's computer by the dial-up networking server 102 rather than by the DHCP server 110.

a redirection server connected between the dial-up network server and a public network, and

Radia et al. Figure 1 : router 106 is connected to the dial-up network server (substituted for DHCP server 110 and login applet) and server systems 108 of the network 100. Router 106 is similar to a redirection server because router 106 is connected between the user's computer (PC 102) and the network's server systems 108, and controls the user's access to the network's server systems 108.

Radia et al. further disclose that the network is a public network such as the Internet:

"For example, assume that a company uses a router to link its internal intranet with an external network, **such as the Internet.**" [2:5-7, emphasis added]

However, Radia et al. do not explicitly disclose that the router 106 controls the user's access to the public network *by utilizing redirection functionality.*

Coss et al. disclose a firewall that is connected between a user's computer and a public network that controls the user's access to the network by utilizing redirection functionality.

For instance, Coss et al. disclose:

"FIG. 2 shows a user site 201 connected to the Internet 105 via a firewall processor 211 ." [3:53-54]

"This invention relates to the **prevention of unauthorized access in computer networks** and, more particularly, to firewall protection within computer networks." [1:6-8, emphasis]

"Dynamic rules are rules which are included with the access rules as a need arises, for processing along with the access rules, e.g., by a rule processing engine. Dynamic rules can include unique, current information such as, for example, specific source and destination port numbers. They **can**

be loaded at any time by trusted parties, e.g., a trusted application, remote proxy or firewall administrator, to authorize specific network sessions." [8:24-31, emphasis added]

"To unburden the firewall of application proxies, the firewall can be enabled to redirect a network session to a separate server for processing." [Abstract, emphasis added]

"Proxy reflection in accordance with the present invention involves redirecting a network session to another, "remote" proxy server for processing, and then later passing it back via the firewall to the intended destination. When a new session enters the firewall, a decision is made to determine whether service by a proxy server is required. If so, **the firewall replaces the destination address in the packet with the host address of the proxy application and, if necessary, it can also change the service port."** [Coss et al., col. 8, lines 56-65, emphasis added]

· It would be obvious to replace the router 106 of Radia et al. with the firewall 211 of Coss et al. to not only allow discarding and forwarding traffic as taught by Radia et al., but to also allow controlling the user's access to the network by redirecting traffic at the firewall 211 to thereby prevent the router 106 from having to utilize application proxies, as suggested by Coss et al.

Radia et al. further disclose that other networking technologies may be used instead of router 106, stating:

"The use of cable router 106 and cable modems 10d is also intended to be exemplary and it should be appreciated **that other networking technologies and topologies are equally practical."** [1:13-16, emphasis added]

Therefore, it would have been further obvious to a person of ordinary skill in the art that the firewall 211 of Coss et al. could substitute the router 106 because the firewall 211 disclosed by Coss et al. is another type of networking technology and Radia et al. suggest other types of network technology is equally practical.

It would have been further obvious that simple substitution of the known firewall 211 for the router 106 obtains predictable results that the network 100 of Radia et al. may now benefit from the redirection functionality included in firewall 211.

an authentication accounting server connected to the database, the dial-up network server and the redirection server,

Radia et al. Figure 1 disclose access network control server ANCS 112 and services management system SMS 114 together are an authentication accounting server because ANCS 112 and SMS 114 are connected to the database (filtering profiles 316 within SMS 114 - see Figure 3), the dial-up network server (substituted for DHCP server 110 and login applet), and the redirection server (Coss' firewall 211 in the position of router 106 in Radia's FIG. 1).

Radia et al. further disclose that the ANCS 112 and SMS 114 determine whether a user ID is authorized to access the network.

For instance, Radia et al. disclose:

"FIG. 9 is a flowchart showing the steps associated with a preferred embodiment of a method for **allocation of privileges to a user in a computer network."** [4:59-61, emphasis added]

"Method 900 includes step **performed by SMS 114 and ANCS 112."** [9:35-36, emphasis added]

"In step 908, which follows, a sequence of filtering profiles 400 **associated with the user** are retrieved, by SMS 114, from filtering profile database 316. In general, it may be appreciated that **various users of network 100 will have varying types of allowed access."** [9:46-50, emphasis added]

"In FIG. 1, ANCS 112 and SMS 114 are shown as separate entities. It should be appreciated, however, that the present invention specifically anticipates that ANCS 112 and SMS 114 maybe **implemented using a single computer system** that includes ANCS process 214, SMS process 314 and filtering profile database 316." [5:65-6:4, emphasis added]

a method comprising the steps of:

Method disclosed by Radia et al. in Figure 9

communicating a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID from the dial-up network server to the authentication accounting server;

Radia et al. disclose a login applet on a PC 102 and the DHCP server 110 respectively communicate a first user ID (entered using the login applet) for one of the users' computers (one of PCs 102) and a temporarily assigned network address (dynamically assigned IP address) for the first user ID to the authentication accounting server (SMS 114).

For instance, Radia et al. disclose the login applet communicates from PC 102 to SMS 114:

"Method 900 begins with step 906 where SMS 114 **waits for a user login.** More specifically, as discussed with regard to method 700, for a preferred embodiment of network 100, **users login to network 100 using a login applet that communicates with a login server, such as SMS 114."** [9:37-42, emphasis added]

Radia et al. also disclose the DHCP server 110 passes the temporarily assigned network address for the first user ID to the SMS 114:

"Method 700 begins with step 706 where **SMS 114 waits for the allocation of an IP address to a client system** 102. More specifically, for a preferred embodiment of network 100, power-on or reset of a client system 102 is followed by connection of the client system 102 to router 106. As part of this connection, the connecting client system 102 requests and receives a dynamically allocated IP address from DHCP server 110. This allocation requires that a number of messages pass between DHCP server 110 and the client system 102 requesting a new IP address. The last of these messages is a DHCPACK message sent by the DHCP server 110 to the client system 102. **To monitor the allocation of IP addresses, SMS 114 monitors DHCP messages within network 100.** Step 706 corresponds, in a general sense, to the
methods and procedures that are executed by SMS 114 to wait for and detect DHCPACK messages within network 100." [7:21-34, emphasis added]

With reference to FIG. 9, it is inherent that the SMS 114 also receives the IP address of the client system 102 from the dial-up network server because Radia et al. **disclose "At the same time, the IP address of the client system 102 acting as a host for the user is passed by the SMS 114 to the ANCS 112."** [9:62-64, emphasis added]

Radia et al. further disclose that the IP address of the client system (one of PCs 102) is temporarily assigned:

"More specifically, in systems that use the DHCP protocol for allocation of IP addresses, each IP address is allocated for a finite period of time. Systems that do not renew their IP address leases may lose their allocated IP addresses." [7:51-55, emphasis added]

However, Radia et al. do not explicitly disclose communicating a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID *from the dial-up network server* to the authentication accounting server.

In the admitted prior art (APA) system of FIG. 1, the dial-up network server 102 communicates a first user ID for one of the users' computers 100 and a temporarily assigned network address for the first user ID to the authentication accounting server 104.

For instance, the APA systems are described as follows:

"The dial-up networking server then passes the user ID and password, along with a temporary Internet Protocol (IP) address for use by the user to the ISP's authentication and accounting server 104." ["118 patent, 1ˢᵗ paragraph of Background of the Invention section, emphasis added]

It would have been obvious to not remove these useful features of the *APA* systems when substituting the *APA* dial-up networking server 102 for the DHCP server 110 and login applet in FIG. 1 of Radia et al. This would have been obvious because simple substitution of the known dial-up networking server 102 for the DHCP server 110 and login applet obtains predictable results that the dial-up networking server 102 continues to include the above disclosed features.

It would further have been obvious that the dial-up network server should continue to behave in this way because, rather than the SMS 114 receiving the user ID and IP address respectively from the login applet and DHCP server 110, the SMS 114 would receive this information from the dial-up networking server, as suggested by the APA.

communicating the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server from the authentication accounting server;

Radia et al. disclose the ANCS 112 and SMS 114 access the database 316 and communicate the (identity of the user) and the temporarily assigned network address (dynamic IP address) to the router 106.

For instance, Radia et al. disclose:

FIG. 9: step 906 "wait for user login", step 908 "retrieve user filter profile from database", step 910 "download user profile to ancs", and step 920 "reconfigure network components" ·

"In step 908, which follows, a sequence of filtering profiles 400 associated with the user are retrieved, by SMS 114, from filtering profile database 316". [9:46-48, emphasis added]

"For the present invention, these filtering profiles 400 are preferably maintained in filtering profile database **316 and retrieved using the identity of the particular user.**" [9:53 -56, emphasis added]

"Step 908 is followed by step 910 where the sequence of user filtering profiles 400 is downloaded by SMS 114 to ANCS 112. At the same time, the IP address of the client system 102 acting as a host for the user is passed by the SMS 114 to the ANCS 112." [9:60-64, emphasis added]

"In the following step, the ANCS 112 uses each of the filtering rules 404 included in the sequence of user filtering profiles 400 **to establish a packet filter for IP packets originating from the client system 102 acting as a host for the user.**" [9:64-10:1, emphasis added]

"The packet filter is established by reconfiguring one or more of the components of the network 100 that forward packets originating at the client system 102 acting as a host for the user. For example, in some cases, the packet filter may be established by reconfiguring the modem 104 connected to the client system 102. Alternatively, the packet filter may be established by reconfiguring router 106." [10:1-7, emphasis added]

It is inherent that the "packet filter for IP packets originating from the client system 102" communicated to the router 106 includes the temporarily assigned (i.e., dynamic) IP address of the client system 102 in order to identify the IP packets originating from the client system 102.

However, Radia et al. do not explicitly disclose communicating the individualized rule set that correlates with the first user ID and the temporarily assigned network address *to the redirection server* from the ANCS 112 and SMS 114.

It would have been obvious to have the ANCS 112 and SMS 114 access the database 316 and communicate the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the firewall 211 of Coss et al. A first reason is Radia et al. teach reconfiguring one or more network components that forward packets originating at the client system 102, and the firewall 211 of Coss et al. is a network component that forwards packets originating at a client system. As such, Radia et al. suggest reconfiguring the firewall 211.

It would have further been obvious to use a known technique (i.e., communicating an individualized rule set to thereby reconfiguring a router 106) to improve a similar device (firewall 211) in the same way.

Additionally, Coss et al. disclose dynamic rules can be loaded into the firewall 211 at any time by trusted applications to thereby authorize specific network sessions. For instance, Coss et al. teach:

"Dynamic rules can include unique, current information such as, for example, specific source and destination port numbers. They can be loaded at any time by trusted parties, e.g., a trusted application, remote proxy or firewall administrator, to authorize specific network sessions." [8:26-31, emphasis added]

It therefore would have further been obvious to have the ANCS 112 communicate the individualized rule set to the firewall 211 of Coss et al. because the ANCS 112 is a trusted application that authorizes specific network sessions, as suggested by Coss et al.

and processing data directed toward the public network from the one of the users' computers according to the individualized rule set.

Radia et al. disclose processing data directed toward the public network from the one of the user computers (one of PCs 102) according to the individualized rule set.

For instance, Radia et al. disclose:

"Subsequently, the packet filter established by the ANCS 112 is used to filter IP packets that originating from the client system 102 acting as a host for the user, allowing the packets that are associated with the network privileges of the user." [10:11-14, emphasis added]

57. The method of claim 56, further including the step of controlling a plurality of data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further provides control over a plurality of data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose the step of computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further provides control over a plurality of data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"The latter embodiment can allow the firewall techniques of the invention to provide, for example, parental control of Internet and video access in the home." [2:57-60]

See FIG. 3, rule No. 10 controlling FTP data **to host B**, and rule No. 30 controlling Telnet data **from host B.**

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43] allowing the firewall 211 to control data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

58. The method of claim 56, further including the step of blocking the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further blocks data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further blocks the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further blocks the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 3, rule No. 20 blocking data **from host A**; and FIG. 4, fifth session key rule (D, A, Telnet) blocking data **to host A**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', **'drop'**, or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to block (i.e., drop) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

59. The method of claim 56, further including the step of allowing the data to and from the users' computers as a function of the individualized rule set.

Radia et al disclose that router 106 in FIG. 1 further allows the data from the users' computers as a function of the individualized rule set (FIG. 6, step 606, "filter IP packets in accordance with filtering profile" and col. 10, lines 6-14).

Radia et al. do not explicitly disclose *the redirection server* further allows the data *to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further allows the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

FIG. 4, first session key rule (A, B, TELNET) allowing data **to host B**, and second session key rule (B, A, TELNET) allowing data **from host B**.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., **'pass'**, 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to allow (i.e., pass) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

60. The method of claim 8, further including the step of redirecting the data to and from the users' computers as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server further redirects the data to and from* the users' computers as a function of the individualized rule set.

However, Coss et al. disclose firewall 211 further redirects the data to and from the users' computers as a function of the individualized rule set.

For instance, Coss et al. disclose:

"For some users and proxy applications, the connection should appear at the destination to be coming from the original source rather than the remote system. This applies, e.g., to services which check the source IP address to ensure that it matches the user who signed up for the requested service. **This capability is provided by "dual reflection" (or "two-way reflection"), with the source address of the outgoing connection changed back from the remote proxy to the original user's source address. This change is effected at the firewall, as each packet is received from the proxy and sent to the destination."** [9:6-16, emphasis added]

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or **'proxy'**" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data to and from the users' computers as a function of the individualized rule set.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

61. The method of claim 56, further including the step of redirecting the data from the users' computers to multiple destinations as a function of the individualized rule set.

Radia et al. do not explicitly disclose *the redirection server* further redirects the data from the users' computers *to multiple destinations* as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 further redirects the data from the users' computers to multiple destinations as a function of the individualized rule set.

For instance, Coss et al. disclose:

"1004: if the action indicates a remote proxy, the packet's destination address is replaced with the address of the remote proxy" [9:39-42]

"Proxy processes have also been developed for other special-purpose applications, e.g., to perform services such as **authentication, mail handling, and virus scanning."** [1:45-49, emphasis added]

Coss et al. also gives examples of redirecting data to both a Telnet proxy and an FTP proxy. For example, Figure 3, rule No. 30 redirects TELNET data to a Telnet proxy server. Coss et al. further state, "For example, an FTP proxy **application** could use a dynamic rule to authorize establishment of an FTP data channel in response to a data request." It is inherent that data was also redirected to the FTP proxy application as a function of the individualized rule set.

Coss et al. also disclose rule set categories such as "Source host group identifier or IP address", "Destination host group identifier or IP address", and "Rule action, e.g., 'pass', 'drop', or 'proxy'" [4:39-43, emphasis added] allowing the firewall 211 to redirect (i.e., proxy) data from the users' computers to multiple destinations as a function of the individualized rule set.

Additionally, Coss teaches "a computer network firewall can be instructed to redirect network session to <u>a separate server</u> for processing, so as to unburden the firewall application proxies. The server processes the redirected network session, and then passes the session back <u>through the firewall to the intended original destination.</u>" See col. 2, lines 42-48.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

62. The method of claim 56, further including the step of creating database entries for a plurality of the plurality of users' IDs are correlated with a common individualized rule set.

Radia et al. disclose that the database entries for a plurality of the plurality of the users' IDs are correlated with a common individualized rule set.

For instance, "In the above description, we have set a default profile called the default login profile. The default login profile is a static profile that **applies to ALL newly connected client systems.** This way the SMS does not need to be aware as new client systems are connected.

"One may also consider setting the default profile to a null profile and for each client system as the client system connects; for example, since a client system that connects may do a

DHCP operation, this event can trigger the SMS to **set the login profile for the newly connected computer." [3:23-33, emphasis added]**

63. The method of claim 8, wherein the individualized rule set includes at least one rule as a function of type of IP (Internet Protocol) service.

Radia et al. disclose that the individualized rule set includes at least one rule as a function of a type of IP (Internet Protocol) packet.

For instance, Radia et al. disclose:

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule 404 has a value that corresponds to an IP packet type, such as TCP,UDP, ICMP, etc. To match a particular filtering rule 404, an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule 404" [6:30-36, emphasis added]

Radia et al. also disclose that at least one rule forwards packets associated with a DNS (domain name service):

"The second of the login filtering profiles 400 forwards packets **associated with DNS (domain name service)** address resolution." [8:6-8, emphasis added]

However, Radia et al. do not explicitly disclose at least one rule as a function of *a type of IP service.*

Coss et al. disclose that the individual rule set includes at least one rule as a function of a type of IP service.

For instance, Coss et al. disclose:

"Service" column in rule table of Figure 3 providing rules as a function of types of IP services such as "FTP", "TELNET", and "MALL".

"As illustrated in FIG. 3, such a table can provide for categories including rule number, designations of source and destination hosts, a **designation of a special service which can be called for in a packet, and a specification of an action to be taken on a packet.** Special services can include proxy services, network address translation, and encryption, for example. In FIG. 3, the categories "Source Host," "Destination Host" and "Service" **impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]**

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any

individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

64. The method of claim 56, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

Radia et al. disclose the individualized rule set includes a default filter sequence for a newly connected client system that allows the newly connected client system to perform login. Radia et al. also disclose that after a user of the newly connected client logs in, the filter sequence associated with the client device is changed to another sequence. For example:
"The SMS maintains a series of filtering profiles, each of which includes one or more of filtering rules. **The SMS sets a default filter sequence for the newly connected client system** by downloading the sequence by the SMS to the ANCS .... Subsequently, the packet filter uses the rules of the login filtering profile sequence to selectively forward or discard IP packets originating from the client system. **This filtering sequence will allow newly connected client systems to perform login but nothing else.**" [3:5- 22, emphasis added]

"A preferred embodiment of the present invention also generates or selects filtering profiles for users. With the login filtering profile sequence in place, a user can use the newly connected client system to login to the network. The user login is monitored by the SMS. **If the user login is successful, the SMS selects or generates a user filtering profile sequence.** The user filtering profile sequence is then downloaded by the SMS to the ANCS ....**Subsequently, the new packet filter uses the rules of the user filtering profile sequence to selectively forward or discard IP packets originating from the client system.**" [3:34-50, emphasis added]

However, Radia et al. do not explicitly disclose utilizing the login filtering *sequence for an initial period of time.* (Instead Radia et al. only disclose utilizing the login filtering sequence until the user logs in.)

Coss et al. disclose that the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the firewall 211 is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

For instance, Coss et al. disclose:

"Exemplary dynamic rules include a 'one-time' rule which is only used for a single session, **a time-limited rule which is used only for a specified time period,** and a threshold rule which is used only when certain conditions are satisfied." [8:37-40, emphasis added]

Accordingly, Coss et al. disclose utilizing an initial rule set being a set of rules including the time-limited rule before the specified time period has expired, and utilizing a standard rule set being the set of rules not including the time-limited rule after the specified time period has expired.

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

65. The method of claim 56, wherein the individual rule set includes at least one rule allowing access based on a request type and a destination address.

Radia et al. disclose that the individualized rule set includes at least one rule allowing access based on a type of IP (Internet Protocol) packet and destination address.

For instance, Radia et al. disclose:

"In FIG. 5, it may be seen that each filtering rule 404 includes an action 500. Action 500 specifies the disposition of IP packets that match by a particular filtering rule 404. In particular, **action 500 may indicate that a matched IP packet will be** forwarded, or that a matched IP packet will be discarded." [6:14-18]

"Filtering rule 404 also includes a **protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet.** Thus, the protocol type 506 of each filtering rule *404* has a value that corresponds to an IP packet type, such as TCP, UDP, ICMP, etc. To match a particular filtering rule *404,* an IP packet must have a protocol type that matches the protocol type 506 included in the filtering rule *404"* [6:30-36, emphasis added]

"Filtering rule *404* also includes a destination IP address 502 and a destination IP mask *504.* Destination IP address 502 corresponds to the destination address included in the header of an IP packet. Destination IP mask *504* is similar to destination IP address 502 but corresponds to a range of destination addresses. To match a particular filtering rule *404,* an IP packet must either have a destination address that matches the destination address 502 included in the filtering rule *404* or have a destination address that is covered by the destination address mask *504* of the filtering rule *404."* [6:18-29, emphasis added]

However, Radia et al. do not explicitly disclose the individualized rule set includes at least one rule allowing access based on *a request type* and a destination address.

Coss et al. disclose that the individualized rule set includes at least one rule allowing access based on a request type and a destination address.

For instance, Coss et al. disclose:

Rule No. 40 in Figure 3 allowing access (i.e., action= "PASS") based on a request type of "MAIL" and a destination host of "D".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

66. The method of claim 56, wherein the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

Radia et al. do not explicitly disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

However, Coss et al. disclose that the individualized rule set includes at least one rule redirecting the data to a new destination address based on a request type and an attempted destination address.

For instance, Coss et al. disclose:

Rule No. 30 in Figure 3 redirecting data (i.e., action = "PROXY") based on a request type of "TELNET" and attempted destination host of "C".

"In FIG. 3, the categories "Source Host," "Destination Host" and "Service" impose conditions which must be satisfied by data included in a packet for the specified action to be taken on that packet." [4:2-11, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

67. The method of claim 56, wherein the redirection server is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet Protocol) packet header by a second destination address as a function of the individualized rule set.

Radia et al. do not disclose that the redirection server is configured to redirect data from the users computers by replacing a first destination address in an IP (Internet protocol) packet header by a second destination address as a function of the individualized rule set.

However, Coss et al. disclose that firewall 211 is configured to redirect data from the users' computers by replacing a first destination address in an IP (Internet protocol) packet header by a second destination address as a function of the individualized rule set.

For instance, Coss et al. disclose:

"As illustrated in FIG. 3, such a table can provide for categories including rule number, designations of source and destination hosts, a designation of a special service which can be called for in a packet, **and a specification of an action to be taken on a packet.**" [4:1-6, emphasis added]

"1004: if the action indicates a remote proxy, the packet's destination address is replaced with the address of the remote proxy; if configured, the destination port can be changed as well; the original packet header data is recorded in the session cache along with any changed values;" [9:39-44, emphasis added]

Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the firewall 211 of Coss for the router 106 in Fig. 1 of Radia. Thus, the simple substitution of one known element (i.e. firewall 211 for the router 106) for another producing a predictable result renders the claim obvious.

Claims 16-24, 26, 27, 36-43, and 68-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coss et al. in view of the APA.

The proposed rejection for claims 16-24, 26, 27, 36-43, and 68-90 on pages 338-484 of the request is hereby incorporated by reference.

This is a RIGHT OF APPEAL NOTICE (RAN); see MPEP § 2673.02 and § 2674. The decision in this Office action as to the patentability or unpatentability of any original patent

claim, any proposed amended claim and any new claim in this proceeding is a FINAL

DECISION.

No amendment can be made in response to the Right of Appeal Notice in an *inter partes*

reexamination. 37 CFR 1.953(c). Further, no affidavit or other evidence can be submitted in an

inter partes reexamination proceeding after the right of appeal notice, except as provided in 37

CFR 1.981 or as permitted by 37 CFR 41.77(b)(1). 37 CFR 1.116(f).

Each party has a **thirty-day or one-month time period,**

whichever is longer, to file a notice of appeal. The patent

owner may appeal to the Board of Patent Appeals and

Interferences with respect to any decision adverse to the

patentability of any original or proposed amended or new claim

of the patent by filing a notice of appeal and paying the fee

set forth in 37 CFR 41.20(b)(1). The third party requester may

appeal to the Board of Patent Appeals and Interferences with

respect to any decision favorable to the patentability of any

original or proposed amended or new claim of the patent by

filing a notice of appeal and paying the fee set forth in 37 CFR

41.20(b)(1).

In addition, a patent owner who has not filed a notice of appeal may file a notice of cross

appeal within **fourteen days of service** of a third party requester's timely filed notice of appeal

and pay the fee set forth in 37 CFR 41.20(b)(1). A third party requester who has not filed a

notice of appeal may file **a notice of cross appeal within fourteen days of service** of a patent

owner's timely filed notice of appeal and pay the fee set forth in 37 CFR 41.20(b)(1).

Any appeal in this proceeding must identify the claim(s) appealed, and must be signed by

the patent owner (for a patent owner appeal) or the third party requester (for a third party

requester appeal), or their duly authorized attorney or agent.

Any party that does not file a timely notice of appeal or a timely notice of cross appeal

will lose the right to appeal from any decision adverse to that party, but will not lose the right to

file a respondent brief and fee where it is appropriate for that party to do so. If no party files a

timely appeal, the reexamination prosecution will be terminated, and the Director will proceed to

issue and publish a certificate under 37 CFR 1.997 in accordance with this Office action.

All correspondence relating to this *inter partes* reexamination proceeding should be
directed as follows:

By Mail to:

Mail Stop *Inter Parte* Reexam
ATTN: Central Reexamination Unit Commissioner of Patents United States Patent & Trademark
Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to:

(571) 273-9900
Central Reexamination Unit

By Hand:

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

Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at https://efs.uspto.gov/efile/myportal/efs-registered

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication should be directed to the Central Reexamination

Unit at (571) 272-7705.

/Jalatee Worjloh/

Primary Examiner, Art Unit 3992

/FOF/

WOO H. CHOI
Supervisory Patent Reexamination Specialist
CRU - Art Unit 3992

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of Ikudome et al.	§ *Inter Partes* Reexamination
	§ **Control No. 95/002,035**
U.S. Patent No. 6,779,118	§
	§ Merged with *Ex Parte* Reexamination
Issued: August 17, 2004	§ **Control No. 90/012342**
	§
Title: USER SPECIFIC AUTOMATIC	§ Group Art Unit: 3992
DATA REDIRECTION SYSTEM	§
	§ Examiner: Jalatee Worjloh
	§
	§ Confirmation No.: 1745
	§

COMMENTS BY THIRD PARTY REQUESTER

PURSUANT TO 37 C.F.R. § 1.947

Mail Stop *Inter Partes* Reexam
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On June 28, 2013, the Patent Owner filed a Response regarding the Action Closing Prosecution of April 29, 2013. Cisco Systems submits the following Comments. It is respectfully requested, for the reasons identified below, that the Examiner:

(i)   maintain the rejection of, and issue an action closing prosecution for, claims 2-7, 9-14, 16-24, and 26-90 (all the claims in reexamination), and

(ii)   deem the arguments advanced by the Patent Owner in the Response to be erroneous, improper, and/or unpersuasive.

In the context of this *inter partes* reexamination, the standard provided in MPEP § 2111 for claim interpretation during patent examination may be applied whereas a different standard may be used by a court in litigation. The Patent Office is not required to interpret claims in the same manner as a court would interpret claims in an infringement suit.

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COMMENTS

Requester's Comments are based on an interpretation of the claims appropriate to this proceeding. In the context of this *inter partes* reexamination, the standard provided in MPEP § 2111 for claim interpretation during patent examination may be applied whereas a different standard may be sued by a court in litigation. The Patent Office is not required to interpret claims in the same manner as a court would interpret claims in an infringement suit.

I.   Summary of Argument

Patent Owner's Response consists mostly of generalized arguments for patentability without reference to specific claim language. Where the Patent Owner does address the claim language, the Patent Owner merely argues for interpretations that are inconsistent with the broadest reasonable interpretation in view of the specification—the standard of claim interpretation that applies in this proceeding. Even if the proposed interpretations were reasonable, the Patent Owner frequently fails to show how the interpretation would distinguish the claim from the teachings of the prior art.

Patent Owner fails to show any error in the Examiner's rejections and presents no reason why the rejections should be reconsidered or withdrawn. Accordingly, the Examiner's rejections should be reaffirmed and made final in a Right of Appeal Notice.

II.   Comments on the Action Closing Prosecution

Requester generally agrees with the Examiner's statements in the Action Closing Prosecution (ACP), in particular the Examiner's decision to maintain the rejection of all of the claims in reexamination. Where appropriate, Requester provides further comments below in the context of the Patent Owner's Response.

III.   Comments on the Decision to Withdraw Rejections of Claim 27

The Examiner withdrew the rejections of claim 27 as 1) obvious over Willens in view of RFC 2138 and Stockwell and 2) obvious over Willens in view of RFC 2138 and the Admitted Prior Art. Although claim 27 remains rejected over other art, Requester believes that the decision to withdraw these rejections was incorrect. While, as the Examiner stated, Willens teaching of "updating the permit list … does not necessarily include 'removal or reinstatement' of a portion of the rule set," Requester respectfully submits that Willens renders "removal or reinstatement" obvious. In particular, the Examiner's use of the word "necessarily" suggests that

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the prior art was evaluated for *inherency*, which is not required since the proposed rejection is for obviousness, not anticipation. As such, Requester respectfully asks for reconsideration and re-adoption of the proposed obviousness rejections of claim 27 based in part on Willens.

IV.   Comments on the Patent Owner's Claim Construction for "Redirection"

Patent Owner acknowledges that none of the claims recite a "session" (Resp. at 5), but nevertheless argues that the claims "limit redirection to occurring only during a 'session.'" (Resp. at 6.) In support of this argument, the Patent Owner cites various sections of the specification relating to the correlation between a user ID and a temporarily assigned network address.

The Examiner has already considered and disagreed with this argument, correctly stating that "the claims do not limit redirection to occur only 'during a session.'" (ACP at 8.) The Patent Owner's interpretation would improperly import limitations from the specification into the claims. However, it is well accepted that limitations from the specification are *not* read into the claims. *See In re Van Geuns*, 988 F.2d 1181 (Fed. Cir. 1993). Since the claims must be given their broadest reasonable interpretation in this proceeding, and since the claims do not limit redirection to occurring during a session, the Examiner correctly determined that the Patent Owner's argument was without merit. (*See* ACP at 8-9.)

V.   Comments on the Patent Owner's Response to the Rejection of Claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84 and 86-90 as Obvious over Willens in view of RFC 2138 and either Stockwell or the Admitted Prior Art

The Examiner properly rejected claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84 and 86-90 as obvious over Willens (US5889958) in view of RFC 2138 and Stockwell (US5950195). As analyzed more fully in the Request for Reexamination:

- Willens teaches that each user can have an individualized set of rules that are enforced by a communication server, which blocks or allows data packets sent between the user's computer and the network. (*See, e.g.*, Willens, 5:60–6:9.)
- Stockwell teaches a similar system for controlling users' access to a network, with a further teaching that rules controlling a user's access to the network can not only block or allow data packets, but also redirect data packets to an alternate destination. (*See, e.g.*, Stockwell 2:29-31.)

Thus, Willens, RFC 2138 and Stockwell render obvious the claimed systems and

methods including the "redirection server" that processes users data "according to the individualized rule set."

Similarly, the Examiner properly rejected these same claims as obvious over Willens in view of RFC 2138 and the Admitted Prior Art. As analyzed more fully in the Request for Reexamination, the Admitted Prior art teaches that it was known to redirect a user's request to an alternate destination. (*See, e.g.,* '118 Patent 1:38-67.) Thus, Willens, RFC 2138 and the Admitted Prior Art render obvious the claimed systems and methods including the "redirection server" that processes users data "according to the individualized rule set."

Patent Owner argues all of these rejections based in part on Willens, and accordingly Requester responds with the following comments.

A.   **Willens Teaches Correlating a User ID to a Temporarily Assigned Network Address**

Patent Owner argues that "neither Willens nor Stockwell teaches or suggests a rule set 'correlated to' a temporarily assigned network address as a condition of redirection." (Resp. at 6.) Patent Owner cites an example from the specification where a user's rule set is associated with a temporarily assigned network address "at the time of user log in." (*Id.*) The Examiner has correctly considered and rejected this argument. (*See* ACP at 19.)

First, none of the claims recite that the correlation is "a condition of redirection" as the Patent Owner argues. The Patent Owner fails to explain why such a "condition" limitation should be read into the claims. Thus, the argument fails to "point[] out the specific distinctions believed to render the claims ... patentable over any applied references." *See* 37 CFR 1.111(b).

Second, Willens plainly teaches correlating a user's rule set to a temporarily assigned network address as part of a user login process. Specifically, Willens teaches checking a user's password, locating his user profile and filter ("individualized rule set"), and providing them to client software 44 ("redirection server") to control the user's access to the Internet:

> When **user 22 logs in** through the communications server 14, the RADIUS client software 45 first determines if user 22 is authorized by checking his password through RADIUS server 16, utilizing user profiles 46. The user profiles 46 also identify a filter "F(Timmy)" in his user profile 46. After checking user 22's authorization, the RADIUS server 16 **supplies the filter identification** through the RADIUS client 45 software along with the verification acknowledgment for the user 22 **for use by client software 44 for controlling access by the user 22 to Internet sites**.

(Willens, 5:5-17.) Willens then shows that the user's individualized rule set is identified and applied to communications to or from the user's temporarily assigned network address:

> ***The source and destination addresses in the header packet are used to identify the user, allowing selection of the appropriate user filter***, and to identify the site for which the user desires access. An example source address identifying a user might be:
>
> 192.168.51.50
>
> An example destination address identifying a site requested by the user might be:
>
> 172.16.3.4
>
> The server 14 uses such addresses in packet headers for making decisions on the handing of IP packets, such as for firewall security.

(Willens, 6:35-46.)

Thus, Willens expressly teaches that— contrary to the Patent Owner's statement—the user's rule set and network address are "associated and occur together in the redirection server while data from the user is being processed." (Resp. at 6.) The Examiner's rejection specifically highlighted the above-quoted teachings in Willens. (*See* Ex. AA at 10-11.) Patent Owner's argument is without merit.

B. Willens and Stockwell, Together, Teach a Redirection Server

Patent Owner continues to argue the references individually, stating that neither Willens nor Stockwell teach every aspect of the claimed "redirection server." (Resp. at 7.) However, as the Examiner correctly explained, it is the combination of Willens and Stockwell that teach the claimed "redirection server." (*See, e.g.*, ACP at 11.)

Patent Owner argues that the combination of Willens and Stockwell would provide only a limited redirection capability, with "a 'redirection' action occurring in response to an IP destination address." (Resp. at 7.) However, the Patent Owner fails to identify any claim language that would require the redirection server to apply a rule that would redirect traffic on other criteria. As such, the argument fails to distinguish the claim language over the prior art teachings. Furthermore, Willens teaches a variety of criteria that may be used for filtering

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traffic: "The firewall filtering of server 14 provides bidirectional (input/output) packet filtering for **source and destination addresses**, for **protocol** (Transport Layer Protocol('TCP'), User Datagram Protocol ('UDP'), IP, Internetwork Packet Exchange ('IPX') and **port** (Hypertext Transport Protocol ('http'), etc.)." (Willens, 6:16-22.) And Stockwell teaches that traffic may be filtered through a redirection action. (*See* Stockwell, 2:29-31.) Thus, the combination renders obvious applying a redirection filter based on a variety of criteria. "A person of ordinary skill in the art is also a person of ordinary creativity, not an automaton." MPEP 2141 II.C (citing *KSR v. Teleflex*, 550 U.S. at 421, 82 USPQ2d at 1397(2007).)

Patent Owner states that the Admitted Prior Art "describes essentially the same redirection as taught by Stockwell" (Resp. at 7), and argues that the combination of Willens and the Admitted Prior Art is deficient for the same reasons argued regarding Stockwell. (Resp. at 7-8.) However, as shown above, the claims do not distinguish over Willens and Stockwell. For the reasons given in the Examiner's rejections—which the Patent Owner does not address in detail—the claims are similarly obvious over Willens in combination with the Admitted Prior Art.

C. Willens and Stockwell Teach Modifying a Rule Set

Patent Owner reiterates its previous arguments regarding claims 16-18, 23, 24, 26, 36-39, 42, 43, 68-82, and 86-90 which recite language such as "modification of at least a portion of the rule set." (Resp. at 8-9.) This argument continues to fail because it is based on a misunderstanding of Willens. The Examiner correctly rejected the argument because "At least Willens teaches modifying the filters during a user session." (ACP at 10.) Patent Owner's argument also fails to consider the additional relevant teachings of Stockwell.

Willens teaches that the filter F (Timmy) includes references to filter lists, such as a "PTA List." (*See* Fig. 3, elements 54 & 52.) Willens further teaches that the communication server 14 (the "redirection server") loads and caches the PTA List from ChoiceNet server 18:

> The server 14 looks at each filter rule found in "F(Timmy)" starting from the top. When it reaches the rule permit "PTA List", **the server 14 looks into its local cache** 50 to see if www.playboy.com is on the PTA List. If not, **the server 14 sends a filter look-up request to the server 18**. This look-up contains the list name "PTA List" and the site Timmy is trying to access (www.playboy.com). The server 18 searches list 52 and sends back

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the result. Based on the result, the server 14 either permits or
denies access **and updates it's local cache** 50.

(Willens, 5:64–6:7.) Thus, communication server 14 does not permanently store the entire PTA List as the Patent Owner argues, but rather stores recently used portions of it in a temporary cache. As is common with memory caching, over time some entries in the cache must be discarded to make room for newer entries. When a discarded entry is needed again, it is understood that communications server 14 will again contact the ChoiceNet server 18. Thus, Willens teaches that a portion of the rule set on communication server 14—specifically, the cached portion of the PTA List—may be automatically modified.

Furthermore, as noted in the Request, the ChoiceNet server 18 "automatically maintains the permit list by downloading updated versions of the list over the Internet," perhaps "on a daily or hourly basis." (Willens 5:41-43, 4:43-44.) Thus, the PTA List—part of the F(Timmy) rule set—may be automatically modified. For example, during the course of a student's day at school, additional websites may be discovered that should be allowed or blocked, so they could be added to the PTA List. Within an hour, the update would reach the ChoiceNet server 18 and, as needed in response to a student's queries, be obtained and applied by the communication server 14 to the student's communications. Thus, Willens teaches that a portion of the rule set on communication server 14 may be automatically modified.

Regarding the communication server 14's caching of access determinations, it would further have been obvious that these cache entries should include an expiration time after which they would be discarded (if they have not already been discarded for lack of recent use.) For example, Stockwell teaches that cache entries should only be relied on before their expiration, thus avoiding the use of stale data:

> The reply can *include an expiration date* for the result of this
> query. This is *used internally for caching*. If a duplicate query is
> made by the same agent before the time expires, the cached reply
> is returned.

(Stockwell, 8:30-33, emphasis added.) It would have been obvious to apply a similar expiration timer to the cache entries in Willens' communications server 14, thus ensuring that automatic updates received by ChoiceNet server 18 will propagate down to the communications server 14 in a timely fashion.

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More generally, Requester submits that in view of Willens' teaching to automatically update a filter list on ChoiceNet server 18, it would have been obvious to update any filter lists in active use on communications server 14. For example, when an error in a school's filter list is discovered—whether a harmful site is allowed or an educational site is blocked—it would have been obvious for a teacher or school administrator to be able to correct the filter list and have the change applied to all students immediately. Without such a capability, a teacher's lesson plan might be thrown into disarray because access to a needed website is being inadvertently blocked. Similarly, an entire school could be disrupted by students accessing a website that the teachers and administrators have no ability to block immediately. For at least these motivations, it would have been obvious that automatic updates could be sent not just to ChoiceNet server 18, but also to communications server 14.

D. Comments on the Patent Owner's Argument Regarding "Elements or Conditions"

Patent Owner argues that examples of "elements or conditions" that can be specified in a rule set include "time," "a location which may or may not be accessed," and "when and how to modify the rule set during a session." (Resp. at 9.) These ideas, Patent Owner argues, correspond to the limitation of allowing "automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses" in claims 16-18, 23-24, 26-43, 68-71 and 76-90. (*Id.*) For this reason, the Patent Owner argues that the rejections should be withdrawn.

The Examiner correctly rejected this argument. (*See* ACP at 12-14.) Patent Owner's argument continues to fail because it does not identify any deficiency in the prior art. The Examiner's rejections expressly show how various prior art references teach modifying a rule set based on time, data transmitted to or from a user, and a location accessed. (*See, e.g.,* Ex. AA at 21-23.) For example, Willens teaches modifying a rule set based on time, such as "on a daily or hourly basis" (Willens, 4:40-45). Willens also teaches modifying a rule set as a function of data transmitted from the user, such as a user's ID and password provided during login. (Willens, 5:8-18.) Willens further teaches modifying a rule set as a function of a location the user accesses, such as by updating a cache with a permit/deny decision for "the site Timmy is trying to access (www.playboy.com)." (Willens, 6:2-7.) Patent Owner does not show any claim distinction over these teachings. The argument is without merit.

VI.   Comments on the Patent Owner's Response to the Rejection of Claims 2-7, 9-14, 16-24, 26-90, Based in Part on Radia

> **A.   Comments on the Patent Owner's Argument Regarding "Configured to Allow Modification"**

Patent Owner argues that "the redirection server configured to allow automated modification" should be interpreted as meaning "The redirection server is programmed to perform automatic modification of the rule set when a specified element or condition in the rule set occurs." (Resp. at 12.) Here, the Patent Owner attempts to read two additional limitations into the claims, neither of which is supported. Specifically, the Patent Owner would add, through attorney argument rather than amendment, (1) that the redirection server *itself* must perform modifications to the rule set, and (2) that the rule set must specify an element or condition for *when* a modification occurs. Neither of these limitations-by-argument is appropriate under the broadest reasonable interpretation.

First, the claims do not recite that the redirection server *itself* performs the modification. Rather, the claim limitation at issue requires the redirection server be "configured to *allow* modification" of the rule set. Notably, the '118 Patent specification includes examples where the redirection server allows an outside server to modify the rule set:

> Of course, the type of ***modification an outside server can make to a rule set*** on the redirection server is not limited to deleting a redirection rule, but can include any other type of modification to the rule set that is supported by the redirection server....

('118 Patent, 8:6-10 (emphasis added).) Although Requester highlighted the quoted language in its previous Comments, the Patent Owner provided no response. Accordingly, Patent Owner's argued claim interpretation is inconsistent with the broadest reasonable interpretation in light of the specification, as it would exclude embodiments where the rule set is modified by an outside server.

Second, contrary to the Patent Owner's assertion, the claims do not recite that a modification occurs "when the conditions of the rule set" require. (Resp. at 11.) As noted above, the claims do not recite that the rule set includes "conditions," and such an interpretation is contrary to the broadest reasonable interpretation in view of the specification. The '118 specification states that "Rule sets *may* contain data about ... under what conditions the rule set should be removed..." ('118 Patent, 4:41-49), but the Patent Owner provides no citation to the

specification in support of the assertion that such conditions are *required* under the broadest reasonable interpretation. More generally, the Patent Owner fails to explain why or how the claims require the "rule set" to include instructions for modifying itself. As such, the Examiner correctly rejected these arguments. (*See* ACP at 30-31.)

The Patent Owner also argues that automatic modification is required because "claims 27 and 40-43 (depending from claim 25), 29 and 52 recite that the 'redirection server is configured to utilize....'" (Resp. at 12.) However, claims 27 and 40-43 contain no such language. Claims 29 and 52 recite "configured to utilize," but the limitation does not relate to modifying a rule set, but rather switching between two distinct rule sets:

> 29. The system of claim 1, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an initial period of time and to thereafter utilize the standard rule set.

The Examiner's rejection showed how Radia teaches using a "login filtering" profile and then, after a user logs into the system, using the "sequence of filtering profiles 400 associated with the user." (Radia, 7:38-49; 9:46-10:14; *see also* ACP at 26-27; Ex. BB at 27.) Patent Owner presents no response to these teachings or to the Examiner's further explanation of them in the Action Closing Prosecution. As such, the Patent Owner fails to point out any alleged distinction over the prior art.

In summary, the Patent Owner has not provided any reason for interpreting any claims as requiring either (1) modification of the rule set by the redirection server itself or (2) modification of the rule set based on conditions or elements that are part of the rule set. Thus, the Patent Owner has not provided any basis for withdrawing any of the rejections, and affirmance is appropriate.

B. Comments on the Patent Owner's Argument Regarding Radia's Router and ANCS Together Acting as a Redirection Server

Patent Owner argues that Radia teaches modifying the rule set only in response to an "event," and not based on programming in the rule set itself. (Resp. at 12.) This argument fails because, as addressed in the previous section, the claims do not require the rule set to include instructions for its own modification. Thus, patent owner's argument is without merit.

C.   Comments on the Patent owner's Arguments Regarding Radia and Stockwell

Patent owner argues that the '118 Patent requires a redirection server "capable of being triggered by 'element or conditions' other than a destination IP address." (Resp. at 13.) This argument fails because the independent claims recite no such limitation requiring filtering on criteria *other than* a destination address. Furthermore, the '118 patent specification provides various examples, specifically highlighting scenarios in which traffic is filtered based on a destination address:

> A user's access can be "locked" to only allow access to one location, or a set of locations, without affecting other users' access. Each time a locked user attempts to access another location, the redirection server 208 redirects the user to a default location. In such a case, the redirection server 208 acts either as proxy for the destination address, or in the case of WWW traffic the redirection server 208 replies to the user's request with a page containing a redirection command.
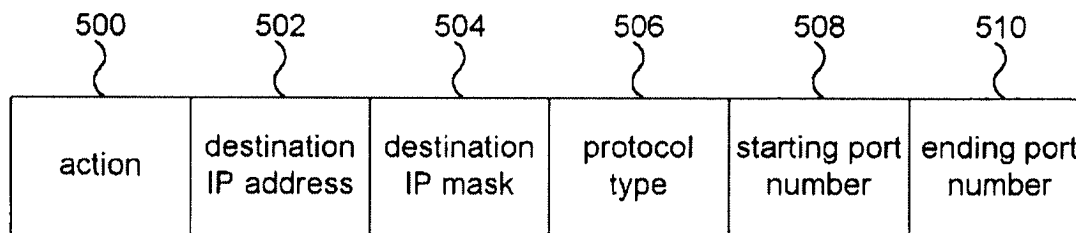
('118 Patent, 5:22-30.)

> The following is an example of a typical user's rule set, attendant logic and operation:
>
> If the rule set for a particular user (i.e., user UserID-2) was such as to only allow that user to access the web site www.us.com, and permit Telnet services, and redirect all web access from any server at xyz.com to www.us.com, then the logic would be as follows...

('118 Patent, 6:4-10.) Thus, it is within the broadest reasonable interpretation of the claims for the rule set to filter traffic based on a destination IP address.

Patent owner further argues that claims 31, 35, 54 and 66 require redirection based on a combination of two conditions, and that Radia and Stockwell fail to render this obvious. (Resp. at 13.) The Examiner's rejection, however, cited to Radia's disclosure of a filter action 500 that—as shown in Fig. 5 below—can be based on a number of criteria, including destination IP address, destination mask (both are types of destinations), and protocol type (a request type). (*See* Ex. BB at 28.)

500	502	504	506	508	510
action	destination IP address	destination IP mask	protocol type	starting port number	ending port number

Radia Fig. 5

Radia explains the use of these multiple filter-match criteria as follows:

> *To match a particular filtering rule* 404, an IP packet *must either have a destination address that matches the destination address* 502 included in the filtering rule 404 or have a destination address that is covered by the destination address mask 504 of the filtering rule 404.
>
> Filtering rule 404 also includes a protocol type 506. Protocol type 506 corresponds to the protocol type of an IP packet. Thus, the protocol type 506 of each filtering rule 404 has a value that corresponds to an IP packet type, such as TCP, UDP, ICMP, etc. *To match a particular filtering rule* 404, *an IP packet must have a protocol type that matches the protocol type* 506 included in the filtering rule 404.

(Radia'233, 6:23-35; *see also* Ex. BB at 28.) The Patent Owner's response completely ignores these teachings, and thus does not respond to the Examiner's rejection. As such, the Patent Owner has not shown how the claim language is alleged to distinguish over the prior art.

The Patent Owner argues that claim 61 requires redirection to multiple web sites and that this would not have been obvious. (Resp. at 13.) The Examiner's rejection relied on Stockwell's teaching that multiple rules could each redirect to different destinations. (See Ex. BB at 11, 38; Stockwell Fig. 5.) Stockwell further provides examples in which its multiple rules control access to multiple web servers:

> The first rule allows http access from the internal security domain to *all Web servers* in the external security domain. The second rule denies access to *a specific Web server* located at 174.252.1.1.

(Stockwell, 2:19-22 (emphasis added).) Thus, Radia and Stockwell render obvious the limitation of redirecting "to multiple destinations a function of the individualized rule set" as recited in

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claim 61. The Patent Owner's response completely ignores these teachings, and thus does not respond to the Examiner's rejection. As such, the Patent Owner has not shown how the claim language is alleged to distinguish over the prior art.

The Patent Owner argues that claim 67 is distinguished because it "includes redirection by a redirection server in response to a rule set correlated with the temporarily assigned network address." (Resp. at 13.) Requester notes that all of the claims require a redirection server and a rule set, and the Patent Owner's argument fails to address either the claim limitations of claim 67 or the Examiner's analysis and basis for rejection. (*See* Ex. BB at 40, 37.) Claim 67 recites in part, "replacing a first destination address in an IP (Internet protocol) packet header by a second destination address." Stockwell teaches, for example, "to redirect the destination IP address to an alternate machine." (Stockwell, 5:24-30.) The Patent Owner's response completely ignores these teachings, and thus does not respond to the Examiner's rejection. As such, the Patent Owner has not shown any alleged distinction over the prior art.

In summary, Patent Owner asserts that the claims are distinguished but fails to reference specific claim language and fails to show how the claim language distinguishes the prior art relied on in the Examiner's rejections. A rejection cannot be overcome by a generalized assertion that the claim is patentable, and as such, the Patent Owner's arguments fail. *See* 37 C.F.R. § 1.111(b).

VII. Comments on the Patent Owner's Response to He, Zenchelsky, Fortinsky, and the Admitted Prior Art

A. Comments on the Patent Owner's Response Regarding Multiple Rejections Based in Part on He and Zenchelsky

The Patent Owner argues that the multiple rejections based in part on He and Zenchelsky are "inconsistent on their face." (Resp. at 14.) Requester is unaware of any rule that would restrict the Examiner's ability to adopt rejections based on both 1) He, Zenchelsky, and the Admitted Prior Art, and 2) He, Zenchelsky, the Admitted Prior Art, and Fortinsky. To the contrary, the MPEP expressly *allows* rejections in the alternative, such as concurrent rejections for both anticipation and obviousness. *See* MPEP 2112 (III).

The Patent Owner further argues that the Admitted Prior Art does not include "redirection servers that respond or are configured in the manner recited in the claims." (Resp. at 14.) Even if correct, the Patent Owner's assertion is irrelevant, as the Examiner's rejections do

– 12 –

not rely solely on the Admitted Prior Art to a "redirection server." Rather, the Examiner's rejections rely on the Admitted Prior Art to show that *redirection* was a known technique for controlling access to resources on a public network. (*See* Ex. CC at 5.) He and Zenchelsky teach servers for controlling access to resources on a public network, and it would have been obvious to incorporate the admittedly-known "redirection" technique into the servers of He or Zenchelsky. (*See* Ex. CC at 2.) Patent Owner's focus on the Admitted Prior Art is an improper attempt to argue the combination of references individually, and as such it is without merit. *See* MPEP 2145 (IV).

The Patent Owner further argues that the "Applicant's supposed 'admitted prior art' is **not** an admission." (Resp. at 14, 17.) However, the Patent Owner fails to cite any authority for this proposition. The "admitted prior art can be relied upon for both anticipation and obviousness determinations, regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102." MPEP 2141.01 (I) (citing various cases). Patent owner's argument is incorrect and without merit.

B.   Comments on the Patent Owner's Argument Regarding "Modifying the Rule Set During a Session"

Patent Owner argues that claims 29, 33, 52 and 64 "recite modifying the rule set" through the limitation "to utilize the temporary rule set during an initial period of time and therefore to utilize the standard rule set." (Resp. at 15.) Patent Owner's argument is without merit and fails to distinguish the prior art. These claims do not require *modifying a rule set*, but rather only changing from using one portion of an individualized rule set to using another portion. Specifically, while the claims require changing from a temporary rule set to a standard rule set, both rule sets are recited as being part of the individualized rule set: "wherein the individualized rule set includes an initial temporary rule set and a standard rule set." (Claim 29.) The Examiner's rejections show this changing between temporary and standard rule sets, for example, through Zenchelsky's 1) pre-rule base of general rules applied before authentication and 2) local rule base of rules that are loaded after authentication. (*See* Ex. CC at 27-28; Zenchelsky 5:66-6:8; 6:35-39.) The Patent Owner does not respond to or attempt to distinguish these prior art teachings.
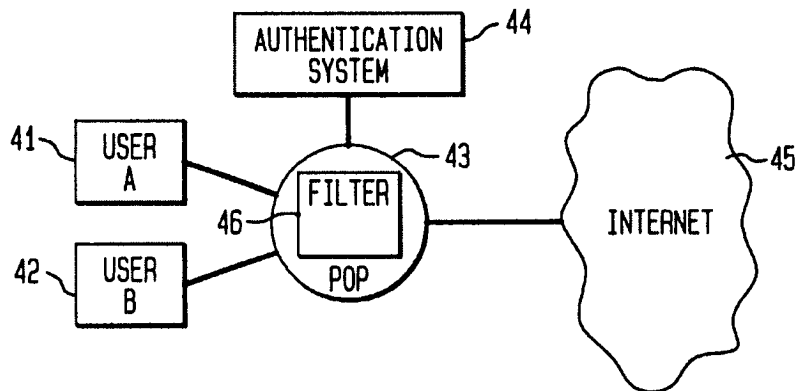
Furthermore, even if the claims were interpreted as the Patent Owner asserts, the Patent Owner provides no argument as to how that interpretation would overcome the prior art. For

example, the Examiner's rejections included analysis showing how He teaches modifying a rule set. (*See* Ex. CC at 17-19.) Thus, Patent Owner's argument would fail even if its proposed interpretation matched the relevant claim language.

<p style="text-align:center">C.   Comments on the Patent Owner's Argument Regarding Controlling Access "To the Network Itself"</p>

Patent Owner argues that in claim 44, "data directed toward the public network from one of the users' computers are processed by the redirection server" should be interpreted as requiring the redirection server to control access to the public network. (Resp. at 15.) Patent Owner asserts that similar arguments apply to claims 56, 64, and 66. (*Id.*)

Patent Owner fails to explain why "processing data" should be interpreted to mean "controlling access." Furthermore, even if the proposed interpretation was applied, Patent Owner fails to explain how it would distinguish the claim over the prior art. The Examiner's rejection, for example, explained how Zenchelsky teaches controlling access via a filter positioned between the user and the Internet. (*See* Ex. CC at 34-36.) The filter "regulate[s] the flow of information between users 51 and 53 and the hosts P, U, V, and W on the Internet." (Zenchelsky, 3:41-51.) This arrangement is shown in Fig. 4:

<p style="text-align:center">Zenchelsky Fig. 4</p>

Patent Owner fails to explain how the proposed interpretation of "controlling access" is distinguishable from the prior art teaching to "regulate the flow of information" between users and the Internet. Thus, Patent Owner's argument regarding claims 44 and 56 is without merit.

Regarding claims 40-42, Patent Owner notes that their parent claim 25 recites that the rule set is "used to control data passing between the user and a public network." (Resp. at 16.) The Examiner's rejection showed how He taught a "credential server 204 responsible for

<p style="text-align:center">– 14 –</p>

controlling network user credentials or privileges, which is essential for effective ***network access control***." (He, 12:66–13:1; Ex. CC at 4-5.) The rejection further explained why it would have been obvious to include redirection as a technique for controlling access to network resources. (*See* Ex. CC at 5-6.) Patent Owner does not address the prior art's teachings or the Examiner's analysis. As such, the Patent Owner fails to provide any basis on which the rejection of claims 40-42 might warrant review, and the argument is without merit.

Patent Owner notes that claim 83—similar to claim 25—recites "a plurality of functions used to control data passing between the user and a public network." (Resp. at 16.) With respect to this language, Patent Owner argues that Zenchelsky fails to teach that the "redirection server, in response to instructions such as from the programmed rule set, modifies at least a portion of the user's rule set." (*Id.*) This argument fails because the purported point of distinction— modifying a user's rule set in response to instructions *from the programmed rule set*—is not recited in claim 83. Rather, claim 83 recites a "step of *receiving instructions* by the redirection server to modify at least a portion of the user's rule set"—but the claim is silent regarding the source of those instructions. As previously noted, the '118 specification describes embodiments in which instructions for modifying a rule set come from an "outside server." (*See* '118 Patent, 8:2-10.) In addition, the Examiner's rejection showed how He teaches that an administrator can modify the user's rule set. (*See* Ex. CC at 45, 25.) Patent Owner does not address this teaching or explain how the recited claim language would be distinguishable. Thus, Patent Owner's argument is without merit.

D. Comments on the Patent Owner's Argument Regarding Obviousness of Redirection

Patent Owner argues that "redirection in response to something other than the destination IP address is not disclosed or suggested by APA or Stockwell." (Resp. at 17.) This argument fails because the Patent Owner does not point to any claim language that would require redirection "in response to something other than the destination IP address." Indeed, the Patent Owner does not even identify which claims this argument allegedly relates to.

Furthermore, the Examiner's rejections showed how He and Zenchelsky disclose controlling access to network resources in response a variety of criteria. For example, Zenchelsky teaches implementing a configurable "security policy." (Ex. CC at 34-35; Zenchelsky, 4:23-27.) In addition to the destination IP address, policy rules can control access

based on the source address, source port, and destination port, and version:

SOURCE Address, Port	DESTINATION Address, Port	VERSION	ACTION
A,21	G,32	4	PASS
A,22	H,19	3	DROP
G,11	A,64	4	DROP
C,9	I,23	4	PASS

(Zenchelsky, 3:5-14.) Patent Owner provides no reasoning to rebut the Examiner's analysis that it would have been obvious to use these same criteria to redirect a user's traffic.

Patent Owner also argues that "it is improper for this Examiner to repeat a rejection in this Reexamination Proceeding that was reversed by the Board of Appeals in the prior Reexamination Proceeding." (Resp. at 17.) As the Examiner correctly noted in the Action Closing Prosecution, however, this proceeding is considering new analysis of the references that was not previously considered. (ACP at 33.) In other words, the prior art references are being considered in a new light. *See* MPEP 2616. For example, Requester's analysis, adopted by the Examiner in rejecting the claims, included new analysis of Zenchelsky's teachings, such as "providing control over a plurality of data to and from the users' computers as a function of the individualized rule set" in claim 2. (*See* Request Ex. CC at 10-11 & Ex. DD at 17.) Zenchelsky's teachings regarding such limitations were not considered during the previous reexamination. (*See, e.g.*, Reexamination Control No.90/009301, Final Rejection at 6 (Aug. 2, 2010).) Additionally, Patent Owner's argument is essentially that reexamination should not have been ordered, but the decision to order reexamination is not subject to review by petition or otherwise. MPEP 2646 (II). Thus, Patent Owner's arguments are without merit.

E.   Comments on the Examiner's Withdrawal of Rejections of Claims 16-24, 26, 27, 36-39, 68-82, 84, and 85

The Examiner withdrew certain rejection of claims 16-24, 26, 27, 36-39, 68-82, 84, and 85. *See* ACP at 34. Requester understands that the withdrawn rejections relate to the proposed obviousness combination of He, Zenchelsky and the Admitted Prior art. Requester respectfully disagrees.

The Examiner withdrew the rejections, stating that "He's authentication lifetime does not teach the time condition." (ACP at 34.) The Examiner noted that in a previous reexamination,

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the Board stated that "He does not, however, draw a connection between the authentication lifetime and the administrator's use of the database tool." (ACP at 34-35; Control No. 90/009301, Decision on Appeal at 7 (Aug. 23, 2011).) While the Board found that He did not expressly teach the "time" limitation, "blocking a website based on these bases would have been obvious." (Control No. 90/009301, Decision on Appeal at 10.) The Board gave the example of "blocking a site … after discovering the user spends excessive time at a site unrelated to work." (*Id.* n.29.) Requester expanded on this reasoning and provided further analysis showing how He would render obvious modifying a rule set as a function of time. (See Ex. CC at 18-19.) Thus, He renders obvious the claimed "time" limitation. Reconsideration is respectfully requested.

F.   **Status of Rejections for Obviousness Based on He, Zenchelsky, the Admitted Prior Art, and Fortinsky**

Requester respectfully understands that a typographical oversight may have caused the rejection on page 45 of the Action Closing Prosecution to omit *Fortinsky* as a relied-upon reference in combination with He, Zenchelsky, and the Admitted Prior art. *See* ACP at 45; *compare to* Office Action mailed 10/19/2012 at 5. Requester further understands that the corresponding rejection analysis was provided in Exhibit DD, rather than Exhibit CC as indicated. *See id.* Confirmation and clarification is respectfully requested.

Assuming the foregoing is true, Requester respectfully disagrees with the decision to withdraw the rejection of claims 16-24, 26, 27, 36-39, 68-82, 84, and 85. As noted previously, He would render obvious modifying a rule set as a function of time. (See Ex. DD at 24-26.) Reconsideration is respectfully requested.

VIII.   **Comments on the Patent Owner's Response to Radia in view of Admitted Prior Art and Coss**

A.   **Comments on Patent Owner's Evidence of Reduction to Practice**

Patent Owner argues that the declarations of named inventors Ikudome and Yeung demonstrate that they reduced to practice the claimed technology prior to the Coss reference's filing date. (Resp. at 17-18.)

These late-filed declarations should be denied entry. An affidavit or declaration filed after the issuance of an Action Closing Prosecution may be entered only "upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented." 37 C.F.R. 1.116(e). Patent Owner fails to demonstrate such "good and sufficient

reasons."

Patent Owner asserts that until the Action Closing Prosecution, "the inventors did not have a recollection of the evidence establishing an earlier reduction to practice." (Resp. at 18.) A review of the record, however, suggests that the Patent Owner apparently knew of the alleged evidence and deliberately chose not to provide it earlier. The file history of Ex Parte Reexamination No. 90/012342 (prior to its merger with this proceeding) indicates that Patent Owner knew of the alleged evidence but deliberately chose not to submit it after the first Office Action:

> If necessary, Patent Owner is prepared to file Affidavits under 37 CFR § 131 in support of prior conception and reduction to practice before the filing date of Coss.

(Control No. 90/012342, Response at 10 n. 14. (Feb. 7, 2013).) Since Patent Owner was *"prepared to file Affidavits"* after the first Office Action but chose not to, the declarations submitted following the Action Closing Prosecution *could have been* provided earlier. Patent Owner does not explain why it chose to withhold the declarations until now. Since it consciously pursued a strategy of delaying the presentation of its allegedly antedating evidence, Patent Owner does not have "good and sufficient reasons why the affidavit or other evidence … was not earlier presented." The evidence should be refused entry.

Furthermore, all of the evidence and information presented was accessible to the Patent Owner at the time of the previous Office Action. The declaration of Ikudome does not state where he found the submitted receipts from various computer-related purchases ("Appendix A") or why they would have been inaccessible to him until now. The other allegedly antedating exhibit ("Appendix B") is a "Technical Innovation Report" that he previously discussed at his 2010 deposition in related litigation. (Ikudome Decl., ¶ 4.) Thus, the Patent Owner had access to all of the information that it now, belatedly, submits in an attempt to antedate Coss. The Examiner should deny entry of the Patent Owner's untimely affidavit and evidence.

Even if admitted, Patent Owner has not shown how the evidence is necessary or would establish conception and reduction to practice prior to Coss' priority date. Establishing an actual reduction to practice "requires a showing of the invention in a physical or tangible form *that shows every element* of the [claim]" and that *"will work* for its intended purpose." MPEP 2138.05 (emphasis added). Patent Owner's evidence fails to make such a showing.

First, the collection of receipts for various hardware and software purchases is not correlated with any of the claim limitations. Does a "Cyclom-16YeP/DB25" correspond to any limitation recited in the claims? Neither the Patent Owner nor either declarant attempt to provide any answer.

Second, the Technical Innovation Report is not shown to support every element of the rejected claims. Indeed, Patent Owner does not provide any analysis whatsoever of the claim language relative to the Technical Innovation Report. "Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice 'amounts essentially to mere pleading, unsupported by proof or a showing of facts' and, thus, does not satisfy the requirements of 37 CFR 1.131(b)." MPEP 715.07 (I).

Even a cursory review of the Technical Innovation Report shows that it lacks various limitations. For example, claim 1 recites that the "authentication accounting server accesses the database and communicates the individualized rule set ... to the redirection server."[1] While the Report describes both an "Authentication and Accounting server" and a "Main redirection server," they do not function as claimed. Instead of receiving an individualized rule set from the authentication and accounting server, the Report states that the redirection server "Consults database (or a flat file) to see if the user in a new session needs to be redirected." (Ikudome Decl., Appendix B at 7.) Thus, the system described in the Report was structured entirely differently than the claims under reexamination.

The submitted evidence is similarly deficient with respect to limitations in the dependent claims. For example, Claim 2 recites providing "control over a *plurality of data* to and from the users' computers." The Report, however, states that "Immediately following the first redirection, the server removes the information associated with his session from its registry. The user can then connect to any sites *without being redirected again*." (Ikudome Decl., Appendix B at 6 (emphasis added).) As further examples, Claims 3 and 4 recite limitations relating to blocking and allowing data as a function of a user's individualized rule set. The Report, however, does not appear to address these limitations at all.

In summary, the Patent Owner's evidence in support of the alleged prior reduction to practice is entirely insufficient. Although an exhibit need not support all claimed limitations, *the*

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[1] Although claim 1 is cancelled, its limitations remain relevant for dependent claims 2-7.

missing limitation must be supported by the declaration itself. MPEP 715.07 (I). Neither of the Patent Owner's declarants address the significant gaps noted above. Thus, the Patent Owner fails to remove Coss as a prior art reference.

B.   Patent Owner Does Not Argue the Rejections on the Merits

The Patent Owner did not provide any arguments on the merits for the rejection of:

- claims 2-7, 9-14, 28-35, and 44-67 as obvious over Radia in view of the Admitted Prior and further in view of Coss, or
- claims 16-24, 26, 27, 36-43, and 68-90 as obvious over Coss in view of the Admitted Prior Art.

Since the Patent Owner does not contest the merits of these rejections, the Examiner should reaffirm the rejections and make them appealable.

IX.   Conclusion

Patent Owner's arguments are unpersuasive and without merit. Therefore, the Examiner's rejection of claims 2-7, 9-14, 16-24, and 26-90 (all of the non-cancelled claims) should be reaffirmed and made final with the issuance of a Right of Appeal Notice.
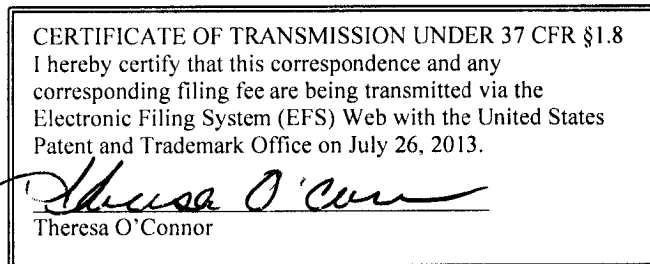
As identified in the attached Certificate of Service and in accordance with MPEP § 2666.06 and 37 CFR §§1.248 and 1.903, a copy of the present response, in its entirety, is being served to the address of the attorney/agent of record at the address provided for in 37 CFR 1.33(c). Please direct all correspondence in this matter to the undersigned.

Respectfully submitted,

/David L. McCombs/

David L. McCombs
Registration No. 32,271

Dated: July 26, 2013
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Telephone: 214/651-5533
Attorney Docket No.: 43614.61

CERTIFICATE OF TRANSMISSION UNDER 37 CFR §1.8
I hereby certify that this correspondence and any corresponding filing fee are being transmitted via the Electronic Filing System (EFS) Web with the United States Patent and Trademark Office on July 26, 2013.

Theresa O'Connor

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of Ikudome et al.	§	*Inter Partes* Reexamination
	§	**Control No. 95/002,035**
U.S. Patent No. 6,779,118	§	
	§	Merged with *Ex Parte* Reexamination
Issued: August 17, 2004	§	**Control No. 90/012342**
	§	
Title: USER SPECIFIC AUTOMATIC	§	Group Art Unit: 3992
DATA REDIRECTION SYSTEM	§	
	§	Examiner: Jalatee Worjloh
	§	
	§	Confirmation No.: 1745

<u>CERTIFICATE OF SERVICE</u>

The undersigned certifies that a copy of the COMMENTS BY THIRD PARTY REQUESTER PURSUANT TO 37 C.F.R. §1.947, in their entirety, were served on:

Hershkovitz & Associates, PLLC
2845 Duke Street
Alexandria, VA 22314

the attorney of record for the assignee of U.S. Patent No. 6,779,118 , and

James J. Wong
2108 Gossamer Ave.
Redwood City, CA 94065

the attorney of record for the requester in Control. No. 90/012342, in accordance with 37 C.F.R. § 1.915 (b)(6), on July 26, 2013.

/David L. McCombs/
David L. McCombs, Registration No. 32,271

Electronic Acknowledgement Receipt

EFS ID:	16425215
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	David L. McCombs/Theresa O'Connor
Filer Authorized By:	David L. McCombs
Attorney Docket Number:	R1341006-D
Receipt Date:	26-JUL-2013
Filing Date:	08-JUN-2012
Time Stamp:	11:56:36
Application Type:	Reexam (Third Party)

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		Comments.pdf	1284879 e63198eb0020d11048e3065b5ab432ac0e9b77f4	yes	24

Multipart Description/PDF files in .zip description		
Document Description	Start	End
Third Party Requester Comments after Action Closing Prosecution	1	23
Reexam Certificate of Service	24	24

Warnings:	
Warnings:	
Information:	
Total Files Size (in bytes):	1284879

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentees: Koichiro Ikudome & Moon Tai Yeung   Art Unit: 3621

Reexamination Proceeding No.: 95/002,035 and 90/012,342   Confirmation No.: 5786
(based on U.S. Patent No. 6,779,118)

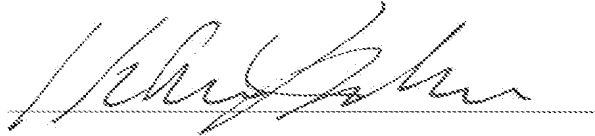Reexamination Filed: 06/08/2012   Examiner: Worjloh, Jalatee

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

DECLARATION OF KOICHIRO IKUDOME UNDER 37 C.F.R. § 1.131

1. My name is Koichiro Ikudome, and I am a resident of Torrance, California. I received an M.S. degree in Electrical Engineering from the Tokyo Institute of Technology in 1983. I worked for Nippon Steel Corporation for 14 years and for Caltech for 2 years as a researcher in Parallel Super Computing. In November 1996, I founded AuriQ Systems for the purpose of developing new products for Internet service providers.

2. I am a co-inventor with Moong Tai Yeung (hereafter "YEUNG) of United States Patent Number 6,779,118, which is entitled "USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM," and was issued on August 17th, 2004 from United States Patent Application Number 09/295,966, which was filed on April 21, 1999.

3. United States Patent Number 6,779,118 is assigned to Linksmart Wireless Technology, LLC and will be referred to hereinafter as "the '118 patent."

4. When I learned in early May 2013 that the examiner was continuing to rely on the Coss patent I believed that our invention was earlier than the Coss September 12, 1997 filing date. I therefore began an investigation in May 2013 to see if we had any documents dated before that date that described the invention and could support an earlier conception and possibly reduction to practice date. One of the places that I looked was a backup file. That file included a number of drafts and revisions of the document we eventually used to file our provisional application. The earliest version that I found was one that bore a date of August 14, 1997. I also recalled that Appendix B was an exhibit (Exhibit 52) at my deposition on March 4, 2010 which was before I was aware of the Coss reference and before it was cited as a reference in this reexamination proceeding. I reviewed copies of my deposition transcript related to Exhibit 52 which are attached as Appendix C. Based on my examination of Appendix A-C attached, and a number of other supporting documents, and

discussions with YEUNG I reached the following conclusions about the conception and reduction to practice of the invention disclosed in the '118 patent.

5. The claimed invention of the '118 patent was conceived by YEUNG and me sometime before May 1997, while I was working for AuriQ Systems in Pasadena, California. Therefore, '118 patent was conceived prior to the September 12, 1997 filing date of Coss et al., U.S. Patent No. 6,170,012, which was cited as prior art in the Office Action in the above identified ex parte reexamination No. 90/012,342 that has been merged with inter partes reexamination No. 95/002,035.

6. After conceiving of the invention, YEUNG and I began to take steps to demonstrate and test the concept. This took the form of writing software and purchasing hardware to test the concept. Attached as Appendix A are true and correct copies of invoices and an Expense report showing the hardware that was purchased throughout the month of May, 1997. This hardware was purchased for the purpose of demonstrating the viability of the Redirection System concept in an actual demonstration project and also testing that concept.

7. YEUNG and I were able to produce a basic prototype within a couple of months of May 1997 and actually demonstrated the concept prior to mid-August 1997.

8. After demonstrating the concept, and with advice of my attorney at that time, YEUNG and I prepared a Technical Innovation Report describing the invention which was just demonstrated. A true and correct copy of that "Technical Innovation Report" dated August 14, 1997, which was distributed internally at AuriQ at that time and which is entitled "User Specific Automatic Web Redirection System" is attached as Appendix B. It was this essential document but with some revisions that was filed on May 4, 1998, as provisional application No. 60/084,014.

9. The pages of my sworn deposition testimony in March 2010 related to Appendix B and which was also marked as Exhibit 52 and which I affirm as being my true and testimony is attached as Appendix C.

10. I hereby declare that all declarations 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 statements may jeopardize the validity of my patent identified above.

_____   June 17, 2013
Koichiro, Ikudome   Date

Appendix A: Copies of invoices and an Expense report showing that the hardware was purchased throughout the month of May, 1997.

Appendix B: "Technical Innovation Report" dated August 14, 1997, which was distributed internally at AuriQ at that time and entitled "User Specific Automatic Web Redirection System"

Appendix C: Pages 238-239 of the Deposition Transcript of Koichiro Ikudome dated March 4, 2010.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentees: Kirochiro Ikudome & Moon Tai Yeung   Art Unit: 3621

Reexamination Proceeding No.: 95/002,035 and 90/012,342   Confirmation No.: 5786
(based on U.S. Patent No. 6,779,118)

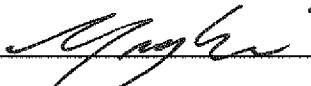Reexamination Filed: 06/08/2012   Examiner: Worjloh, Jalatee

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

DECLARATION OF MOON TAI YEUNG UNDER 37 C.F.R. § 1.131

1. My name is Moon Tai Yeung, and I am a resident of Arcadia, California. I received an M.S. degree and an Engineering degree in Aeronautics from the California Institute of Technology. I founded and operated Avant Garde Software Technologies, a consulting firm, from 1991 to 1994. I served at Infogy, Inc. in 1994, consulting for NASA-JPL and KPMG. When AuriQ Systems was founded in 1996, I worked to develop its key technologies, such as the automatic and user-specific data re-direction technology.

2. I am a co-inventor along with Koichiro Ikudome (hereafter "IKUDOME") of United States Patent Number 6,779,118, which is entitled "USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM," and was issued on August 17th, 2004 from United States Patent Application Number 09/295,966, which was filed on April 21, 1999.

3. United States Patent Number 6,779,118 is assigned to Linksmart Wireless Technology, LLC and will be referred to hereinafter as "the '118 patent."

4. The claimed invention of the '118 patent was conceived by IKUDOME and me sometime prior to May 1997, while I was working for AuriQ Systems in Pasadena, California. Therefore, '118 patent was conceived prior to the September 12, 1997 filing date of Coss et al., U.S. Patent No. 6,170,012, which was cited as prior art in the Office Action in the above identified ex parte reexamination No. 90/012,342 that has been merged with inter partes reexamination No. 95/002,035.

5. After conceiving of the invention sometime before May 1997, IKUDOME and I began to take steps to demonstrate and test the concept. This took the form of writing software and purchasing

hardware to test the concept. Attached as Appendix A are true and correct copies of invoices and an Expense report showing the hardware that was purchased throughout the month of May, 1997. This hardware was purchased for the purpose of demonstrating the viability of the Redirection System concept in an actual demonstration project and also testing that concept.

6. IKUDOME and I were able to produce a basic prototype within a couple months of May 1997 and actually demonstrated the concept prior to mid- August 1997.

7. After demonstrating the concept, and with the advice of IKUDOME's attorney at that time, IKUDOME and I prepared a Technical Innovation Report describing the invention which was just demonstrated. A true and correct copy of that "Technical Innovation Report" dated August 14, 1997, which was distributed internally at AuriQ at that time and entitled "User Specific Automatic Web Redirection System" is attached as Appendix B. It was this essential document that was filed on May 4, 1998, as provisional application No. 60/084,014.

8. I hereby declare that all declarations 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 statements may jeopardize the validity of the above identified patent.

_____   June 10, 2013
Moon Tai Yeung   Date

Appendix A: Copies of invoices and an Expense report showing that the hardware was purchased throughout the month of May, 1997.

Appendix B: "Technical Innovation Report" dated August 14, 1997, which was distributed internally at AuriQ at that time and entitled "User Specific Automatic Web Redirection System"

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Inventor: Koichiro Ikudome et al.

Art Unit: 3992

Reexamination Proceeding 90/012,342
(based on U.S. Patent No. 6,779,118)

Confirmation No.: 5786

Reexamination Filed: June 8, 2012

Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

Mail Stop *"inter partes* Reexam"
Attn.: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 23313-1450

Honorable Commissioner:

Transmitted herewith are PATENT OWNER'S AMENDMENT UNDER 37 CFR §1.951 AND RESPONSE TO ACTION CLOSING PROSECUTION IN MERGED PROCEEDINGS, DECLARATION OF KO IKUDOME, DECLARATION OF MOON TAI YEUNG, AND APPENDICES A-C, and a Certificate of Service in connection with the above-captioned Proceedings

The fee has been calculated as shown below:

Claims After Amendment	No. of Claims Previously Paid	Present Extra	Small Entity		Large Entity	
			Rate	Fee	Rate	Fee
*Total Claims:			x 30=	$	x 60=	$
**Indep. Claims:			x125=	$	x250=	$
Extension Fee for Months				$		$
Other:				$		$
		Total:	$	Total:	$

___ Fee Payment made through EFS.
___ Payment is made herewith by Credit Card (see attached Form PTO-2038).
X The Director is hereby authorized to charge all fees, including those under 37 CFR §§1.16 and 1.17, which are required for entry of the papers submitted herewith, and any fees which may be required to maintain pendency of this Proceeding, to Deposit Account No. 50-2929.
___ The Director is hereby authorized to charge all fees under 37 CFR § 1.18 which may be required to complete issuance of this application to Deposit Account No. 50-2929.

Respectfully submitted,

Date:__ June 28, 2013 ___

_____ /Abe Hershkovitz/ _____
Abraham Hershkovitz
Registration No. 45,294

R1341006D.A05; AH/pjj

Electronic Acknowledgement Receipt

EFS ID:	16195849
Application Number:	90012342
International Application Number:	
Confirmation Number:	5786
Title of Invention:	User Specific Automatic Data Redirection System
First Named Inventor/Applicant Name:	6779118
Customer Number:	40401
Filer:	Abraham Hershkovitz
Filer Authorized By:	
Attorney Docket Number:	R1341006-D
Receipt Date:	28-JUN-2013
Filing Date:	08-JUN-2012
Time Stamp:	22:14:49
Application Type:	Reexam (Third Party)

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		RI1341006D-F-A05_Amdt-and-Rsp-to-ACP.pdf	245927 edd0c2024f4e4d08ae2fec611f83e0209977d6c4	yes	19

Multipart Description/PDF files in .zip description			
Document Description		Start	End
Patent Owner Comments after Action Closing Prosecution		1	18
Reexam Certificate of Service		19	19

Warnings:					
Information:					
2	Affidavit-not covered under specific rule	RI1321006D-F-Appendix-B.pdf	272848 <hr>0858ff4b7fadee049f02dca41cff31d424f792a3	no	8
Warnings:					
Information:					
3	Affidavit-not covered under specific rule	RI1341006D-F_Appendix-C.pdf	356940 <hr>6173df88b7d0da3280458765bad40129244f8afe	no	10
Warnings:					
Information:					
4	Affidavit-not covered under specific rule	RI1341006D-F_Appendix-A.pdf	7336176 <hr>f892dcf8f7c3d1f303df7dfcadf089f149a45443	no	7
Warnings:					
Information:					
5	Affidavit-not covered under specific rule	RI1341006D-F_Ikudome-Dec.pdf	863792 <hr>c962eb281e098e23fdf1a7c7ef2d4ad60bc56158	no	3
Warnings:					
The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing					
Information:					
6	Affidavit-not covered under specific rule	RI1341006D-F_Yeung-Dec.pdf	94735 <hr>2b37cc28fb2e83b7866d736efe8c803900c0409f	no	2
Warnings:					
Information:					
7	Trans Letter filing of a response in a reexam	RI1341006D-A05_Transmittal.pdf	158913 <hr>ef8a2324bcdc8e65d412836bc86c34cb6eb52d99	no	1
Warnings:					
Information:					
		Total Files Size (in bytes):	9329331		

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Koichiro Ikudome et al.   Art Unit: 3992

Reexamination Proceeding 90/012,342   Confirmation No.: 5786
Reexamination Filed: June 8, 2012
Reexamination Proceeding 95/002,035   Confirmation No.: 1745
Reexamination Filed: September 12, 2012
(based on U.S. Patent No. 6,779,118)   Examiner: Jalatee Worjloh

For: USER SPECIFIC AUTOMATIC DATA REDIRECTION SYSTEM

PATENT OWNER'S AMENDMENT UNDER 37 CFR §1.951 AND RESPONSE TO THE ACTION CLOSING PROSECUTION IN MERGED REEXAMINATION PROCEEDINGS

Mail Stop "*inter partes* Reexam"
Attention: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Honorable Commissioner:

Patent Owner respectfully submits the following Amendment and Response to the Action Closing Prosecution ("ACP") mailed on April 29, 2013 in the above-identified merged Proceedings based on USP 6,779,118 ("the '118 patent") , which sets a 2 month period for reply up to and including June 29, 2013. Accordingly, this Amendment and Response is being timely submitted on or before the due date.

It is believed that no fee is required for entry and consideration of this Amendment and Response. However, the Commissioner is authorized to charge any fee actually necessary to maintain this Proceeding in force to Deposit Account No. 50-2929, referencing Dkt. No. RI1341006F-D.

Evidence of service of this Amendment and Response to the proper mailing address of third party requester is shown on the last page attached hereto.

Consideration of this Amendment and Response is respectfully requested.

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IN THE CLAIMS:

Please amend the claims as follows (all claims are presented with their appropriate status indicators)

1. (Cancelled in the Reexamination Certificate)

2.-7. Claims are unaltered from those in the Reexamination Certificate.

8. (Cancelled in the Reexamination Certificate)

9.-14. Claims are unaltered from those in the Reexamination Certificate.

15. (Cancelled in the Reexamination Certificate.)

16.-20. Claims are unaltered from those in the Reexamination Certificate.

21. (Amended) A system comprising:

a redirection server programmed with a user's rule set correlated to a temporarily assigned network address;

wherein the rule set contains at least one of a plurality of functions used to control data passing between the user and a public network;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set correlated to the temporarily assigned network address;

wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses; and

wherein the redirection server is configured to allow the removal or ~~reinstatment~~ <u>reinstatement</u> of at least a portion of the rule set as a function of the location or locations the user accesses.

22.-24. Claims are unaltered from those indicated in the Reexamination Certificate.

25. (Cancelled in the Reexamination Certificate)

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26.-43. Claims are unaltered from those indicated in the Reexamination Certificate.

44. (Amended) A system comprising:

a database with entries correlating each of a plurality of user IDs with an individualized rule set;

a dial-up network server that receives user IDs from users' computers;

a redirection server connected between the dial-up network server and a public network[,]; and

an authentication accounting server connected to the database, the dial-up network server and the redirection server;

wherein the dial-up network server communicates a first user ID for one of the users' computers and a temporarily assigned network address for the first user ID to the authentication accounting server;

wherein the authentication accounting server accesses the database and communicates the individualized rule set that correlates with the first user ID and the temporarily assigned network address to the redirection server; and

wherein data directed toward the public network from the one of the users' computers are processed by the redirection server according to the individualized rule set.

45.-63. Claims are unaltered from those indicated in the Reexamination Certificate.

64. (Amended) The method of claim 56, wherein the individualized rule set includes an initial temporary rule set and a standard rule set, and wherein the redirection server is configured to utilize the temporary rule set for an ~~intial~~ initial period of time and to thereafter utilize the standard rule set.

65.-90. Claims are unaltered from those indicated in the Reexamination Certificate.

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<u>Remarks</u>

The claims are amended presently solely to correct the obvious typographical (Office) errors introduced in Reexamination Certificate No. 6,779,118 C1. No new matter is added.

Without waiving any previously-presented arguments in response to prior Office Actions, Patent Owner submits the following written comments pursuant to 37 C.F.R. §1.951(a) regarding the ACP dated April 29, 2013, it being noted that the USPTO has yet to establish a *prima facie* case of obviousness.

More specifically, the Examiner's frequent incorporation by reference of different portions of the Reexamination Request, with statements of why Patent Owner's arguments were not persuasive, makes it difficult to present a cogent traverse. This is because the ACP does not point out clearly (a) what the primary reference discloses, (b) which of the claimed limitations are not disclosed in the primary reference, (c) where in the secondary reference(s) the teaching can be found, and (d) why it would have been obvious to combine the references in the manner alleged by the Examiner so as to render the claimed invention obvious.

A. ACP Pages 4-26 - Obviousness re Willens/ RFC 2138 in view of Stockwell/APA

ACP page 11-22 Claims 2-7, 9-14, 16-18, 23-26, 28-71, 86-90 (Willens, Stockwell)
ACP page 23 – 26 Claims 2-7, 9-14, 16-18, 23-24, 26, 28-71, 76-84 and 86-90 (Willens, RFC 2138, APA).
ACP page 43 Claims 2-7, 9-14, 16-18, 23-24, 26, 28-71, 76-84 and 86-90 (Willens, RFC 2138, Stockwell)
ACP page 43 - Claims 2-7, 9-14, 16-18, 23, 24, 26, 28-71, 76-84 and 86-90 (Willens, RFC 2138, APA)

<u>ACP page 20 – Withdrawal of rejection of Claim 27.</u>

Patent Owner acknowledges withdrawal of the rejection of Claim 27 as obvious over Willens/RFC 2138 in view of Stockwell/APA – ACP page 20-23[1] because the references do not teach "removal or reinstatement of at least a portion of the rule set ..." ACP page 20. Patent Owner also notes that claims 19-22, 72-75 and 85, which have not been rejected

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[1] The Examiner also lists claim 27 as being rejected on ACP pages 11 and 23 but then indicates at pages 25 and 26 that the rejection of claim 27 as obvious over Willens, RFC 2138, Stockwell and APA is withdrawn. Since the references cited on pages 11 and 23 are identical and no reason for rejection is recited on those pages, Patent Owner assumes that the inclusion of Claim 27 as rejected at pages 11 and 23 was a typographical error, and that the rejection of claim 27 on pages 11 and 23 has also been withdrawn.

under Willens in combination with Stockwell, likewise include "removal or reinstatement of at least a portion of the rule set ...."

Patent Owner hereafter addresses the issues raised by the Examiner in the rejection of claims based on Willens/RFC 2138 and Stockwell/APA.

ACP page 9: "Claims do not expressly define the user session"

The Examiner, at ACP page 8, states that "the claims do not limit redirection to occur only during a session," and at ACP page 9, states that "the claims do not expressly define the user session." Patent Owner submits this is not the case. Patent Owner first notes that "session" is a term not used as a claim element, but rather, is used as a shorthand term for one of the requirements of the claims: the period during which a single temporarily assigned network address is assigned to a user computer, and the redirection server processes packets communicated between the user and the network according to the programmed rule set. An exemplary embodiment of a "session" with these claim limitations is described in the specification at '118 patent 5:45-6:3 and 6:24-40 (initiating a "session") and 4:67-5:4. Patent Owner's definition of "session" to which the Examiner has objected, namely, the "the period of time during which a single temporarily assigned network address is assigned to a user computer and the redirection server processes packet communicated between the user and the network according to the programmed rule set," is fully supported by at least the portions of the specification identified above and the language in the claims. For example, independent claims 16-23 specify that data from a user to the internet is controlled only after the "redirection server is programmed with the user's rule set *correlated* to a temporarily assigned network address." All pending claims use language requiring that the rule set be "correlated" with the "temporarily assigned network address" which only occurs when the user ID and a temporary network address is assigned so the user can begin interacting with the internet through the redirection server. Therefore, the redirection server, in response to the authentication server when a user disconnects from the internet, "removes any outstanding rules sets and information [which includes temporarily assigned network address] associated with the session." See '118 patent at 5:3-4. In each claim, the interaction between the user and the network only occurs when there is a temporarily assigned network address. This is the same period during which the rule set for a temporarily assigned network address is programmed in the redirection server. Therefore, a session exists only if the user has provided a user ID, a temporary network address is

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assigned, and the rule set is programmed in the redirection server. Only then can the redirection server perform redirection. The claims therefore limit redirection to occurring only during a "session" – while the temporarily assigned network address is assigned to the user. The Examiner has provided no rationale as to how data redirection could occur if a temporary network address was not assigned to a user. Patent Owner therefore respectfully requests reconsideration of the Examiner's position that the claims do not require that redirection be done only during a user "session."

ACP page 11 and 14-17: Willens/RFC2138 combined with Stockwell/APA [Claims 2-7, 9-14, 16-18, 23, 24, 26-71 and 86-90]

The Examiner has maintained the above rejection on the grounds that Willens in combination with the redirection of Stockwell renders the identified claims obvious. Patent Owner submits that these claims are patentable because redirection can only occur when the rule set used to process data from the user to the internet is correlated with the temporarily assigned network address, and neither Willens nor Stockwell teaches or suggests a rule set "correlated to" a temporarily assigned network address as a condition of redirection.

The ordinary meaning of correlation according to Merriam Webster's Dictionary is
"a relation existing between phenomena or things or between mathematical or statistical variables which tend to vary, be associated, or occur together in a way not expected on the basis of chance alone."

In the '118 patent, the rule set used in the redirection server and temporary network address assignment are associated together in the redirection server and occur together at the time of user log in. See, for example, claim 16 of the '118 patent, which requires that the rule set and the temporarily assigned network address be associated and occur together and programmed in the redirection server while it processes data from the user. The remaining claims all require the same correlation between the rule set and temporarily assigned network address in the redirection server when processing data from the user to the internet.

Combining Willens and Stockwell would not teach or suggest the rule set and the temporarily assigned network address (which is only assigned during a user session as above described) be associated and occur together in the redirection server while data from the user is being processed, and such a relationship would only be obvious in the

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combination of Willens and Stockwell using impermissible hindsight based on the teaching of the '118 patent.

The Examiner also relies on Willens for its purported teaching of "redirection server" and Stockwell for its teaching of "redirection." Patent Owner respectfully disagrees. Willens/RFC2138 teaches controlling user access to a public network through a packet filtering firewall. A user seeking access to the internet logs in with a password which is used to identify a particular filter to be downloaded and used in the firewall. The filter includes a list of websites the user is allowed to access. (Willens 5:9-26). The Willens' filter then *either permits or denies* access to a destination web site (Willens 6:5-7). Willens does not teach or suggest any server capable of a third option, such as redirecting the user to another site. Thus, Willens does not teach the redirection server.

Stockwell teaches a very limited version of redirection that is not consistent with the redirection of the '118 patent. Specifically, Stockwell (and APA) teach that redirection to a particular site occurs in response to a *destination IP address* in an incoming connection request. See Stockwell 5:28-30; 8:14-16; 11:30-33[2]. Stockwell does not teach redirection by a redirection server when the rule set specifying a redirection rule is correlated with a temporarily assigned network address and which occurs in response to a condition other than a destination address. By contrast, the redirection of the '118 patent redirects in response to a rule that is correlated to a temporarily assigned network address. Further, the '118 patent does not require that the redirection occur only in response to a destination IP address. See '118 patent 5:24-26; 30-32; 39-44; 6:1-3; 4:64-66. Redirection in response to a redirection rule correlated with a temporarily assigned network address is not disclosed by Stockwell. Likewise, Stockwell does not disclose redirection in response to a condition other than a destination IP address. Consequently, a combination of Willens and Stockwell would only result in an access control system with a "redirection" action occurring in response to an IP destination address. Since there is no disclosure in Willens or Stockwell of correlation between the rule and a temporarily assigned network address for the user or redirection in response to a condition other than a destination IP address, neither of those elements can be read into the combination without using impermissible hindsight.

The admitted prior art (APA) described at '118 patent 1:42-63 describes essentially the same redirection as taught by Stockwell and likewise does not teach a rule correlated

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[2] The only other reference to redirection is at Stockwell 2:28-48 which also refers to redirection in response to a destination IP address 174.252.1.1.

with a temporarily assigned network address or that can use a condition other than a destination IP address to trigger the redirection action. Therefore, for the same reasons given above, a combination of Willens and APA would not yield a system as claimed by the '118 patent without impermissible hindsight.

Patent Owner therefore respectfully requests withdrawal of the obviousness rejections of the above claims.

ACP page 10, 14 and 19-20 - Modification of a portion of the rule set programmed in the redirection server.

At ACP page 10, the Examiner maintains the rejection of claims 16-18, 23, 24, 26-27, 36, 37, 38, 39, 42, 43, 68-82, 86-90 on the ground that Willens teaches modification of the rule set during a user session. Specifically, the Examiner, citing Willens 5:9-46 and 4:40-45, argues that Willens discloses modifying filters during a user session because the server software "automatically" maintains the permit list stored in server 18 and in cache by downloading updated versions of the list, and further, that the list is updated daily or hourly. The Examiner thus concludes that Willens allows automated modification of the rules as a function of time. However, the server cited by the Examiner as being "automatically *maintained*" and updated periodically is not the client data processing software 44 of the communications server 14 where the filter is *used for controlling access.* Rather, it is the network access server 18 where filters for all users are *stored* when not in use. See *Willens 5:16-24.* As to the filter actually downloaded in the communications server 14, Willens explicitly states that the filter rule downloaded from either the cache or the filter server 18 for use to control access is "*maintained* in the *server 14 memory* for the rest of the user 22's session." Willens 5:25-26. In other words, contrary to the Examiner's position, the filter programmed into the communications server 14 of Willens *is not modified* during a user session. Hence, Willens not only does not teach modification of the rule set programmed and in use in the redirection server, but actually teaches that there is no modification while the filter is in use.

By contrast, the "automated modification" recited in the '118 patent claims has nothing to do with updating or maintaining a list of rules "stored locally in cache" (Willens 5:19-20) or stored at a remote access server 18 "which *stores* the centralized permitted site list and the filters to be used..." (Willens 5:22-23). Rather, the '118 patent requires that the rule set to be modified be the one *actually programmed in the redirection server* (not a rule

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set stored in the authentication server 204). This necessarily means that the modification occurs after the rule set is programmed into the redirection server (when the user logs in) and before the rule set program is removed (when the user logs off) – in short, during a user session. See e.g., '118 patent Claim 16, second paragraph.

The Examiner's citation of Willens 4:40-45 is inapposite. As demonstrated by Willens 6:25-37, the "central server" that is easily updated is the network access server 18 where the filters are stored, not in the software 44 of the communications server 14 where the filter is being *used to process data* from the user computer. The filter when in use in communications server 14 is not modified, as explained above. Therefore, contrary to the Examiner's analysis, Willens describes a system where the rule set downloaded – programmed – into the communications server software and used to process data from the user to the internet is static and does not change during the user's session.

Like Willens, Stockwell does not teach or suggest modification of a rule set while it is resident as a program in the redirection server. Therefore, the combination of Willens and Stockwell could not encompass the claimed rule set modification of a rule set programmed in the redirection server without using impermissible hindsight.

Accordingly, Patent Owner respectfully requests withdrawal of this rejection of claims 16-24, 26-43, 52, 64, 68-90.

ACP page 13-14: "Elements or conditions"

The Examiner at ACP page 13 states that "the ability to modify rule during a user session in response to those element or conditions … are not recited in the rejected claims" 16-18, 23-24, 26-43, 68-71 and 76-90. Patent Owner disagrees. Each of these listed claims includes the following limitation:

> "…the redirection server is configured to allow automated modification of at least a portion of the rule set as a function of some combination of time, data transmitted to or from the user, or location the user accesses…"

The '118 patent at 4:41-42 states that "rule sets specify elements or conditions…" where the specified "elements or conditions" can include "how long to keep the rule set active" ("time"); "a location which may or may not be accessed" ("location a user accesses"); "when and how to modify the rule set during a session" ("modification" while the redirection server is programmed with the rule set); "and the like." See '118 patent 4:42-47. But a subset of all possible "elements or conditions" of the rule set are actually listed in the claims. As above

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explained, the modification occurs to the rule set (correlated with the temporarily assigned network address) programmed in the redirection server and in use processing data from a user. Therefore, contrary to the Examiner's position, "in response to those elements or conditions" is recited in the rejected claims. As above discussed, the redirection server is "programmed with a rule set" and therefore can redirect in response to the rule set only during a user session. Absent a rule set correlated with a temporarily assigned network address programmed in the redirection server, no processing of data from the user can occur.

For these reasons, the claims incorporating modification of a rule set (occurring with a temporarily assigned network address) programmed in the redirection server is not shown in either Willens or Stockwell, and a combination of the two references would not render claims with rule set modification obvious without impermissible hindsight.

For the above reasons, Patent Owner respectfully requests withdrawal of this reason for rejection of 16-24, 26-43, 52, 54, 64, 66 and 68-90 as obvious over Willens in combination with Stockwell.

B. Radia/Wong '727[3]/Wong '178 combined with Stockwell/APA

> **ACP pages 26-32 and 43 Claims 6-7, 13-14, 16-24, 26-44, 49-56, 61-90 (Radia, Wong '727, Stockwell)**
> **ACP page 32 Same reason as 26-32, Claims 2-5, 9-12, 45-48, 57-60 (Radia, Wong '727, APA, Wong '178)**
> **ACP page 32 and 44 Same reason as 26-32 Claims 2-5, 9-12, 45-48, 57-60 (Radia, Wong '727, Stockwell, Wong'178)**
> **ACP page 32 and 44 Same reason as 26-32, Claims 7, 14, 16-24, 50-56, 62-90 (Radia, Wong '727, APA)**
> **ACP page 44 Same reason as in pages 26-32 Claims 6-7, 13-14, 16-24, 26-44, 49-56 and 61-90 (Radia, Wong '727, Stockwell, Wong'178)**

ACP page 26-27 – Radia prior art and "is configured to allow modification"

The Examiner states at ACP 27 that the claims recite that the "redirection server is configured to allow modification" does not require that redirection server itself do the reconfiguration, and therefore, the claims are not limited to modification done by the redirection server. Patent Owner respectfully disagrees.

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[3] The frequent reference in the ACP to Wong '726 instead of Wong '727 is construed to be a minor typographical error.

Patent Owner first notes that nothing in Radia teaches or discloses a system where the filter configured (programmed) in a router or modem causes the programmed filter to change. Rather, Radia only teaches modification of a filter in response to events extrinsic to the filter actually in use in the router or modem.

By contrast, the redirection being "configured to allow modification" requires the redirection server be able to do the modification when the conditions of the rule set calling for modification to occur. The Examiner apparently takes the position that "allowing" modification means that something other than the redirection server can actually perform the modification action, and that the redirection server simply does not prevent such modification. Such an interpretation is contrary to the specification and claims for several reasons.

First, the specification requires that the redirection server actually perform whatever action is prescribed by the programmed rule set. See '118 at 3:15-30 ("The redirection server uses the...information supplied by the authentication accounting server, for that particular IP address to...allow...block...modify the request according to the redirection information"); '118 at 4:52-66 ("The redirection server 208 performs all the central tasks of the system....The redirection server receives all the IP address and rule set as well as other attendant logical decision such as...dynamically changing the rule sets based on conditions."); '118 at 5:31-44 (the redirection server automatic changes the rule set to sequence between one filter and another filter in response to time). Nothing in the specification supports an interpretation of the phrase "configured to allow automatic modification" where the automatic modification is done by something other than the redirection server.

Second, "allow" means that the redirection server automatically modifies the rules set only when the specified condition arises. It does not mean that something beside the redirection server does the modification. For example, automatic modification will be performed by the redirection server but is only allowed or enabled "as a function of time" (claims 16 and 19); "as a function of the data transmitted to or from the user" (claims 17 and 20); or "as a function of the location or locations the user accesses" (claims 18 and 21).

Third, the ordinary meaning of "configured" from the Merriam Webster dictionary is
"to set up for operation especially in a particular way."

The "redirection server *programmed* with a user's rule set" sets the redirection server up for operation to process data from the user. This is the only "configured" taught by the '118 patent and is the only reasonable interpretation of "configured" as used in the claims.

Fourth, other claims also demonstrate that it is the redirection server that does the "automatic modification." For example, claims 27 and 40-43 (depending from claim 25), 29 and 52 recite that the "redirection server is configured *to utilize...*" and claim 77 recites that "...redirection server to modify...." In each, the redirection server performs the action of modification.

Accordingly, the only reasonable interpretation of the "redirection server is configured to allow automated modification" is

> *The redirection server is programmed to perform automatic modification of the rule set when a specified element or condition in the rule set occurs.*

Any other definition, including a definition that something other than the redirection server causes the modification of the rule set, would be contrary to the plain meaning of the words used, would contradict the patent specification and would be broader than would be reasonably permissible in view of the specification and claims.

In view of these remarks, Patent Owner respectfully requests withdrawal of this reason for rejecting any of the claims.

ACP page 29 – router and ANCS function as the redirection server

The Examiner takes the position that the ANCS and the router can be taken together to function as the redirection server, and that the ANCS utilizes the filtering profiles to reconfigure the router. Patent Owner submits that, even if this is true, the claims require that the redirection server programmed with the rule set correlated with the temporarily assigned network address to do the modification of the programmed rule set. Radia does not teach this. Rather, Radia teaches only that filtering rules be changed in response to an "event" not part of the filter itself and not part of the filter programmed in the router such as "log on," "log out" or "connecting."

Patent Owner respectfully requests that the Examiner withdraw this basis for rejection of the claims.

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ACP page 31 – Combining Radia and Stockwell (claims 31, 35, 54, 61, 66, 67)

Patent Owner refers to and incorporates by reference the arguments against combining Stockwell and Willens above as equally applicable to the rejection of the above claims. Specifically, Stockwell teaches redirection in response to a destination IP address, whereas the '118 patent requires redirection in response to a rule programmed in a redirection server correlated with a temporarily assigned network address that is capable of being triggered by "element or conditions" other than a destination IP address. For example, claims 31, 35, 54 and 66 each cause redirection based on the *combination* of two conditions - "a request type *and* an attempted destination address" in the rule set. Neither Radia nor Stockwell teach using a combination of elements or conditions making up the rule set correlated with a temporarily assigned network address programmed in a redirection server to cause redirection. Therefore, a combination of Radia and Stockwell would only result in a system that caused redirection in response to a specific web site (destination IP address) in the rule. To incorporate redirection in response to a combination of conditions or one correlated with a temporarily assigned network address would only be obvious with impermissible hindsight.

Claim 61 requires redirection by a redirection server in response to a rule set correlated with a temporarily assigned network address to multiple web sites. This combination of elements and limitation is not disclosed by either Radia or Stockwell and would not be obvious if the two references were combined. Such a combination would not include redirection to multiple destinations in response to a rule set correlated to a temporarily assigned network address which is programmed in the redirection server, none of which would obvious without using impermissible hindsight gained from the teaching of the '118 patent. Claims 67, which depends from claim 56, also includes redirection by a redirection server in response to a rule set correlated with the temporarily assigned network address and is likewise not disclosed by Radia or Stockwell, and any combination of the two references would therefore not incorporate these limitations without using the disclosure of the '118 patent and impermissible hindsight.

In view of the above arguments, Patent Owner respectfully requests that the rejection of claims 2-7, 9-12, 13-14, 16-24, and 26-90 as obvious in view of Radia/Wong in combination with Stockwell be withdrawn.

C. ACP pages 33-36 - He, Zenchelsky, APA, Fortinsky, BPAI Decision

ACP pages 33-36 - Claims 2-7, 9-14, 16-24, 26, 2, 28-35, 36-39, 40-54, 60-66, 68-81 [82] and 83, 84, 85, 86-89   He, Zenchelsky, APA; He, Zenchelsky, APA, Fortinsky.
ACP pages 44-45 - Claims 2-7, 9-14, 28-35, 40-54, 56, 60-66, 83, 86-89 same as page 33-43 He, Zenchelsky, APA, with modifications - BPAI decision page 10.
ACP page 45 - Claims 2-7, 9-14, 28-35, 40-67, 83, 86-90 same as page 33-43 He, Zenchelsky, APA

Patent Owner acknowledges the withdrawal of the rejection of claims 16-24, 26, 27, 36-39, 68-82, 84 and 85 as obvious over He, Zenchelsky, APA; He, Zenchelsky APA and Fortinsky at ACP pages 34-35.

Patent Owner believes that the rejection of claims 2-7, 9-14, 28-35, 40-54, 56, 60-66, 68-81, 83 and 86-89 over (a) HE combined with Zenchelsky and Applicant's supposed "admitted prior art," and also (b) HE combined with Zenchelsky, Fortinsky and Applicant's supposed "admitted prior art," are inconsistent on their face.   More specifically, if combination (a) meets all the limitations of the rejected claims, why would there be a need for including a further reference to Fortinsky as a teaching reference as was done in combination (b). Similarly, reliance on Fortinsky as was done in combination (b) must be interpreted to mean that combination (a) still lacks certain limitations recited in the rejected claims.

Furthermore, Patent Owner questions the Examiner's use of Applicant's supposed "admitted" prior art. Applicant's admission that redirection servers are known is **not** an admission that redirection servers that respond or are configured in the manner recited in the claims are known.

Additionally, the Examiner rejected claims 2-7, 9-14, 28-35, 40-54, 56, 60-66, 83 and 86-89 as being unpatentable over HE, Zenchelsky and Applicant's supposed admitted prior art for the reasons expressed in Exhibit CC of the Reexamination Request, with modifications (see the bottom of page 44 of the ACP), and also simply (presumably without modifications) for the reasons expressed in Exhibit CC of the Reexamination Request (see the top of page 45 of the ACP). This makes the rejection of these claims confusing, as it is unclear what the difference is between these two rejections of the same claims.

Patent Owner's arguments as to why Applicant's supposed "admitted prior art" is **not** an admission, as misinterpreted by the Examiner, are equally applicable here.

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ACP page 34 – "claims 28, 29, 31, 33, 35, 54, 64, and 66 do not recite modifying the rule set during a session"

Claims 29, 33, 52, and 64 do recite modifying the rule set contrary to the position of the Examiner. Each of these claims recites "...the redirection server is configured to utilize the temporary rule set during an initial period of time and thereafter to utilize the standard rule set." For the reasons given above, a "session" is simply the period while the redirection server is programmed with a rule set correlated to a temporarily assigned network address. Claim 1, from which claim 29 depends, and claim 44, from which claim 52 depends, each specifies that the redirection server changes the rule set from a temporary rule to a standard rule during the time the rule set is programmed and the user is directing data to the public network.

Accordingly, Patent Owner respectfully requests withdrawal of the rejection at least as to claims 29, 33, 52, and 64 on this ground.

ACP page 34 – "redirection server to control access to the network itself and redirection server between the user and the network"

Claim 44, from which claim 54 depends, explicitly recites "a redirection server connected between the dial up network server and a public network." This is a recitation that the redirection server is between the user and the network. Claim 44 also requires that the "data directed toward the public network from the one of the users' computers are processed by the redirection server...." "Processing" in its broadest reasonable interpretation means "controlling" passage of the data and hence access to the public network. Claim 44 and hence claim 54 therefore recite controlling access to the public network by the redirection server.

Likewise, claims 64 and 66 depend from claim 56 which recites in the preamble "a redirection server connected between the dial-up network server and the public network." The only reasonable interpretation of this language is that the redirection server is between the user and the network. Claim 56 also recites that the redirection server processes data directed to the public network from a user, which necessarily means that access to the network be controlled by the redirection server.

Accordingly, Patent Owner respectfully requests withdrawal of the rejection of claims 54, 64 and 66.

ACP page 35 – Claims 40-42

The Examiner has stated that the "redirection server to control access to the network itself and redirection server between the user and the network" are not recited in the claims. Patent Owner respectfully disagrees. Claims 40-42 are dependent from claim 25. Claim 25 of the '118 patent at 10:36, explicitly recites that the rule set programmed into the redirection server is "used to control data passing between the user and a public network." Further, claim 25 of the '118 patent at 10:43-45 states that the "redirection server has a user side that is connected to a computer using the temporarily assigned network address and a network side connected to the computer network." Clearly, claim 25 recites a redirection server to control access to the network where the redirection server is between the user and the network.

Accordingly, Patent Owner respectfully request withdrawal of this ground for rejection of claims 40-42.

ACP page 35 – Claims 83 and 86-90

The Examiner has indicated that the "redirection server to control access to the network" is not recited in claims 83 and 86-90. Patent Owner respectfully disagrees, and directs the Examiner to the *ex parte* Reexamination Certificate (US 6,779,118 C1) at 8:32-37 (claim 83), which explicitly requires "a redirection server connected between a user computer and the public network, the redirection server containing a user's rule set...wherein the user's rule set contains at least one of a plurality of functions *used to control data passing between the user and a public network*." Controlling the passage of data from the user to the public network is controlling access, that is, passing, blocking or redirecting.

Patent Owner does not dispute that Zenchelsky shows a filter between a plurality of users and the internet (Figure 4). However, as with claims 84 and 85, claim 83 includes the additional limitation that the redirection server, in response to instructions such as from the programmed rule set, modifies at least a portion of the user's rule set. This is at least one feature of the claims that is not shown or suggested in Zenchelsky.

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ACP page 44 – He, Zenchelsky, and APA and BPAI Decision page 10

The Examiner, citing the BPAI Decision Re Reexamination 90/009,301 page 10, relies on the Board's statement that "since redirection would have been an obvious extension of blocking, it follows that the combination of He and Zenchelsky in view of [APA] would have made *redirection based on the same bases* obvious as well." Redirection based on the "same bases" as disclosed in Stockwell /APA is redirection in response to a destination IP address. However, as argued above, redirection in response to something other than the destination IP address is not disclosed or suggested by APA or Stockwell. The Board did not address redirection in response to some other bases as above described.

In fact, the Examiner's rejections based on HE, Zenchelsky and the supposed "admitted prior art" (that is not an admission) are entirely improper. The Examiner in the original Reexamination Proceeding went up on Appeal of the claims based on a combination of HE, Zenchelsky and the supposed "admitted prior art." The Board of Appeals <u>reversed</u> that Examiner's rejection of certain claims and entered its own rejection of those claims. It is respectfully submitted that it is improper for this Examiner to repeat a rejection in this Reexamination Proceeding that was reversed by the Board of Appeals in the prior Reexamination Proceeding.

Accordingly, Patent Owner respectfully requests withdrawal of the rejection based on the BPAI decision.

D. ACP pages 36-42 Radia in view of APA and Coss

> ACP Page 45–96 - Claims 2-7, 9-14, 28-35, 44-67 Radia in view of APA and Coss.
> ACP Page 96 - Claims 16-24, 26, 27, 36-43 and 68-90 Coss in view of APA

Patent Owner submits herewith the Declarations of Inventors Koichiro Ikudome and Moon Tai Yeung under 37 C.F.R. § 1.131 demonstrating that the invention recited in the '118 patent was conceived and reduced to practice before August 14, 1997, which is prior to the September 12, 1997 filing date of Coss et al., U.S. Patent No. 6,170,012. Coss is therefore not prior art as to the '118 patent. As set forth in the Ikudome Declaration, when the Examiner maintained the rejection in the 4/29/2013 ACP, Inventor Ikudome undertook a detailed investigation of his records and discovered not only receipts for the purchase of equipment acquired for

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the purpose of testing the invention concept, but also located a document dated August 14, 1997 which is being submitted with his 37 C.F.R. §1.131 Declaration which shows that the invention was actually reduced to practice before the Coss filing date.   Patent Owner therefore respectfully requests withdrawal of all of the above rejections citing Coss.   Rejections based on Radia in combination with APA without reliance on Coss have been addressed above.   These Declarations should be entered because (1) they are necessary to eliminate Coss as "prior art" and (2) they could not have been presented earlier since the inventors did not have a recollection of the evidence establishing an earlier reduction to practice than Coss until after the Examiner's mailing of the ACP.

The Office is invited to direct any questions to the undersigned at the below-listed telephone/facsimile numbers and e-mail address.

Respectfully submitted,
Koichiro Ikudome et al.

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R1341006D.A03 AH/pjj

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CERTIFICATE OF SERVICE

It is hereby certified that the attached Amendment in merged Reexamination Proceedings No. 95/001,431 and No. 90/012,342, and this Certificate, **are being served by first class mail on June 28, 2013** on the third party requester at the third party requester's address:

IP Section
Haynes & Boone
2323 Victory Avenue, Suite 700
Redwood City, CA 94065

_____/Abe Hershkovitz/_____
Abraham Hershkovitz

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

40401   7590   04/29/2013
Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
04/29/2013	PAPER

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.

PTOL-90A (Rev. 04/07)

Transmittal of Communication to Third Party Requester *Inter Partes* Reexamination	Control No. 95/002,035 and 90/012,342	Patent Under Reexamination 6779118
	Examiner Jalatee Worjloh	Art Unit 3992

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

┌────── (THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS) ──────┐

James J. Wong
2108 Gossamer Ave.
Redwood City, CA 94065

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination prceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it <u>cannot</u> be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

Transmittal of Communication to Third Party Requester *Inter Partes* Reexamination	Control No.	Patent Under Reexamination
	95/002,035 and 90/012,342	6779118
	Examiner	Art Unit	
	Jalatee Worjloh	3992	

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

┌────── (THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS) ──────┐

David L. McCombs
Haynes & Boone, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination prceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it <u>cannot</u> be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

ACTION CLOSING PROSECUTION (37 CFR 1.949)	Control No.	Patent Under Reexamination
	95/002,035 and 90/012,342	6779118
	Examiner	Art Unit
	Jalatee Worjloh	3992

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

Responsive to the communication(s) filed by:
Patent Owner on 1/7/2013 and 2/2/2013
Third Party(ies) on 2/15/2013

Patent owner may once file a submission under 37 CFR 1.951(a) within 2 month(s) from the mailing date of this Office action. Where a submission is filed, third party requester may file responsive comments under 37 CFR 1.951(b) within 30-days (not extendable- 35 U.S.C. § 314(b)(2)) from the date of service of the initial submission on the requester. **Appeal cannot be taken from this action.** Appeal can only be taken from a Right of Appeal Notice under 37 CFR 1.953.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892
2. ☐ Information Disclosure Citation, PTO/SB/08
3. ☐ _____

PART II. SUMMARY OF ACTION:

1a. ☒ Claims 2-7, 9-14, 16-24, and 26-90 are subject to reexamination.
1b. ☐ Claims _____ are not subject to reexamination.
2. ☐ Claims _____ have been canceled.
3. ☐ Claims _____ are confirmed. [Unamended patent claims]
4. ☐ Claims _____ are patentable. [Amended or new claims]
5. ☒ Claims 2-7, 9-14, 16-24, and 26-90 are rejected.
6. ☐ Claims _____ are objected to.
7. ☐ The drawings filed on _____ ☐ are acceptable ☐ are not acceptable.
8 ☐ The drawing correction request filed on _____ is: ☐ approved. ☐ disapproved.
9 ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has:
  ☐ been received. ☐ not been received. ☐ been filed in Application/Control No _____
10. ☐ Other _____

U.S. Patent and Trademark Office
PTOL-2065 (08/06)

Paper No. 20130325

ACTION CLOSING PROSECTUION

Introduction

This is an action closing prosecution (ACP) in the inter partes reexamination of U.S.

Patent No. 6,779,118 to Ikudome, et al. ("Ikudome"), the following office action is being written

for the merged proceeding of reexamination control no. 95/002,035 and 90/012,342.

Status of Claims

Claims 2-7, 9-14, 16-24, and 26-90 are rejected.

References Cited in the Request

• U.S. Patent No. 5835727 to Wong et al. ("Wong '727");

 • U.S. Patent No. 6073178 to Wong et al. ("Wong ' 178");

• U.S. Patent No. 5950195 to Stockwell et al. ("Stockwell");

• U.S. Patent No. 5889958 to Willens;

• U.S. Patent No. 5848233 to Radia et al. ("Radia");

• Request for Comments 2138, Internet Engineering Task Force, April 1997 (RFC 2138);

• U.S. Patent No. 6088451 to He et al. ("He");

• U.S. Patent No. 6233686 to Zenchelsky et al. ("Zenchelsky");

• U.S. Patent No. 5815574 to Fortinsky; and

•U.S. Patent No. 6170012 to Cosset al. ("Coss").

Patent Owner's Statement and Requester's Comment

Patent owner's statement was filed:

- 1/17/2013 in 95/002035

- 2/2/2013 in 90/012342

Third party requester's comment was filed:

- 2/15/2013 in 95/002035

Summary of Rejections

The following rejections were given in the Non-final action dated 10/19/2012 (95/002,035):

- Claims 2-7, 9-14, 16-18, 23, 24, 26-71, 76-84, and 86-90 are obvious over Willens and RFC 2138 and Stockwell;

- Claims 2-7, 9-14, 16-18, 23, 24, 26-71, 76-84, and 86-90 are obvious over Willens in view of RFC 2138 and Admitted Prior Art;

- Claims 6, 7, 13, 14, 16-24, 26-44, 49-56, and 61-90 are obvious over Radia in view of Wong '727 and further in view of Stockwell;

- Claims 2-5, 9-12, 45-48, and 57-60 are obvious over Radia in view of Wong '727 and Stockwell and further in view of Wong '178;

- Claims 7, 14, 16-24, 50-56, and 62-90 are obvious over Radia in view of Wong '727 and further in view of Admitted Prior Art;

- Claims 2-5, 9-12, 45-48, and 57-60 are obvious over Radia in view of Wong '727 and Admitted Prior Art and further in view of Wong '178;

- Claims 2-7, 9-14, 16-24, 26-54, 56, 60-66, 68-81, and 83-89 are obvious over He, Zenchelsky, and the Admitted Prior Art; and

- Claims 2-7, 9-14, 16-24, and 26-90 are obvious over He in view of Zenchelsky, Fortinsky, and the Admitted Prior Art.

The following rejections were given in the Non-final action dated 12/07/2012 (90/012342):

- Claims 2-7, 9-14, 28-35, and 44-67 are obvious over Radia in view of Admitted Prior Art and in further in view of Coss; and

- Claims 16-24, 26, 27, 36-43, and 68-90 are obvious over Coss in view of Admitted Prior Art.

Response to Arguments

Motivation to combine the references

PO: Patent owner argues that the Examiner fails to articulate any rationale for combining the references cited in the Office Action or a rationale as to why the cited references, alone or in combination, disclose, suggest or provide any motivation for a redirection server programmed with a "rule set": (1) to "block" or "allow" data packets from the user computer as a function of the rule set; (2) to perform the redirection of data packets as a function of the rule set; and (3) to change the rule set during a user session as a function of "elements or conditions" that are part of the "rule set."

TPR: Requester notes that a detailed explanation of the reasons to combine the prior art for each proposed rejection was provided (see e.g. Request AA at 2 & 56-57; Ex. BB at 2, 49, 55, & 104; Ex. CC at 2; Ex. DD at 2.)

Examiner: The Examiner agrees with the Requester. The Office action clearly provided reasons to combine the prior art references.

Combining References

PO: Patent owner argues that the technical differences between the teaching of the prior art and the '118 patent include: that the rule set incorporates "elements or conditions," not just packet filters that always "allow," "deny" or "redirect" until changed by a system administrator; that the redirection server be able to modify the rule set during a user session in response to "elements or conditions" in the rule set; and that redirection at the user side is for the purpose of controlling access to the network itself, not network elements.

TPR: The Requester notes that the claims do not recite any such "purpose" limitation or refer to "controlling access to the network itself." Requester submits that the '118 patent specification does not provide any basis for Patent Owner's attempted distinction between controlling access to a network itself and controlling access to its constituent network elements. According to the Requester, the '118 patent specification acknowledges that the filter will control access to a destination accessible through the network (i.e. a network element) and not the "network itself".

Examiner: The Examiner respectfully disagrees with Patent owner.

During reexamination, claims are given the broadest reasonable interpretation consistent

with the specification and limitations in the specification are not read into the claims (In re

Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).

In response to Patent owner argument that the references fail to show certain features of

the invention, it is noted that the features upon which Patent owner relies (i.e., the redirection at

the user side is for the purpose of controlling to the network itself, not network elements) are not

recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

PO: Patent owner argues that an obviousness conclusion is also precluded because of the

absence of any claim construction analysis in Requester's argument adopted by the Examiner.

TPR: The Requester notes that claim construction analysis is not required in a request for *inter*

partes reexamination. (See 37 C.F.R. 1.915 (listing required contents of request): cf. 37 C.F.R.

42.104(b) (3) (requiring claim construction for new *inter partes* review proceedings).)

Examiner: The Examiner respectfully disagrees with Patent owner.

During reexamination, claims are given the broadest reasonable interpretation consistent

with the specification and limitations in the specification are not read into the claims (In re

Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)). Therefore, requester is not

required to provide a claim construction analysis.

Rule Set

PO: Patent owner argues that the rule set in the '118 patent is not a static data packet filter, but is a set of rules that, when programmed into the redirection server, can change the way the redirection server processes the data packets from the user computer in response to changes in elements or conditions- in short, the '118 patent's rule set itself, when programmed into the redirection server, enables the processing of the redirection serer to change from one protocol to another in response to the "elements or conditions" and to effect that change during a user session.

TPR: Requester submits that the pending claims must be "given their broadest reasonable interpretation consistent with the specification." (MPEP § 2111). Also, it is noted the Patent Office is not required to interpret claims in the same manner as a court would interpret claims in an infringement suite, where a different standard applies. Additionally, Requester argues that interpreting "rule set broadly enough to include packet filters is entirely consistent with the '118 specification, which repeatedly discusses filtering packets using a rule set. (See, e.g., '118 Patent, 5:62-67, 6:1-3, 6:37-39, and 7:26-28).

Examiner: The specification describes the rule sets at col. 4, lines 41-49 as follows:

> The rule sets specify elements or conditions about the user's session. Rule sets may
> contain data about a type of service which may or may not be accessed, a location, which
> may or may not be accessed, how long to keep the rule set active, under what condition
> the rule set should be removed, when and how to modify the rule set during a session.

> During reexamination, claims are given the broadest reasonable interpretation consistent

with the specification and limitations in the specification are not read into the claims (In re

Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)). However, column four's

description of rule set does not include the concept of enabling the processing of the redirection

server to change from one protocol to another in response to the elements or conditions. Also,

the claims do not recite such language.

Redirection Server

PO: Patent owner argues that the prior art references teach redirection as a separate function, not

part of a packet filter; or teach redirection at discrete events, not as part of an integrated rule set

to control access to the network itself and not just to network elements (servers), which differs

from the '118 patent. That is, the queries of Stockwell do not occur during a session but only

before the start of a session. However, redirection as taught by the '118 patent can occur any time

during a user session in response to a change in "elements or conditions" that occur during a

session.

TPR: Requester asserts that Stockwell is distinguishable because the queries of Stockwell do not

occur during a session and the '118 patent does not rely on generating a query. Requester states

that Stockwell discusses applying redirection as part of a rule set and without any reference to

requiring a query (see 2:24-31).

Examiner: The Examiner respectfully disagrees with Patent owner. During reexamination,

claims are given the broadest reasonable interpretation consistent with the specification and

limitations in the specification are not read into the claims (In re Yamamoto, 740 F.2d 1569, 222

USPQ 934 (Fed. Cir. 1984)). In this case, the claims do not limit redirection to occur only

"during a session."

Additionally, Patent owner describes a session as "the period of time during which a

single temporarily assigned network address is assigned to a user computer and the redirection

server processes data packets communicated between the user and the network according to the

programmed rule set." However, the claims do not expressly define the user session. It is noted

that the features upon which Patent owner relies (i.e., redirection occurring during a user session)

are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van

Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Modification of a Portion of the Rule Set during a Session

PO: Patent owner argues that the requirement of modification of the rule set during a user

session is an explicit aspect of the definition of "rule set" in the '118 patent, and none of the cited

references, either singly or in any possible combination, teach, suggest, or provide any

motivation for modification of a rule set by a redirection server during a user session after the

rule set has been programmed into the redirection server and while the temporary network

address is assigned.

TPR: Requester asserts that various claims recite separate, express limitations relating to

"modification" of the rule set. (See, e.g., claims 16-23.) Also, the '118 specification describes a

"typical user's rule set" that is static. (See '118 Patent, 6:4-22.) Thus, there is no basis for

interpreting "rule set" as requiring a modification to have occurred.

Examiner: As per claims 2-7, 9-14, and 44-67, the Examiner respectfully disagrees with the

Patent owner that modifying the rule set during a session is a requirement. Patent '118 recites

"the rule sets specify elements or conditions about the user's session. Rule sets may contain data about a type of service which may or may not be accessed... when and how to modify the rule set during a session and the like." See col. 4, lines 41-47. Hence, it is not always a requirement for the rule set to always contain information regarding how and when to modify the rule set during a session. Also, claims 2-7, 9-14 and 44-67 do not recite modifying the rule set during the user session. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As per claims 16-24, 26-43, and 68-90 modification of the rule set is required. The Examiner respectfully disagrees with Patentee that none of the references teach modification of the rule set during a user session. At least Willens teaches modifying the filters during a user session. In Willens, when a user logs in, the user is authenticated using his profiles. If the user's filter is not stored in cache, the client software sends a lookup request to the network access server, which stores the centralized permitted site list and filters to be used as masks for checking access classification of requires sites, to download the filter, which is maintained in the sever memory for the rest of the user's session. The server software automatically maintains the permit list by downloading updated versions of the list over the Internet and compiling the list for use by the client software. See col. 5, lines 9-46. Also, Willens teaches updating the list daily or hourly (see col. 4, lines 40-45). Thus, the filters of Willens allow automated modification of the rules as a function of time.

__Rejection of Claims 2-7, 9-14, 16-18, 23, 24, 26-71 and 86-90 under 35 U.S.C. 103(a) over__

__RFC 2138 (Willens) and Stockwell (Request Exhibit AA, pages 2-55)__

Stockwell

PO: Patent owner argues Stockwell does not disclose redirection at any time during a user

session in response to an element or condition change. By contrast, redirection as taught by the

'118 patent can occur at any time during a user session in response to a change in an element or

condition that is part of the rule set. Additionally, Patentee submits that Stockwell does not

suggest, disclose or provide a motivation for the modification of a rule set programmed in a

redirection server in response to element or conditions, that is, while a user session is in progress.

TPR: Requester notes that none of the claims recites "while the redirection server processes data

packets communicated between the user and the network according to programmed rule set" as

asserted by Patent owner. Additionally, the Requester submits that the rejection relied on

Willens' client's software on communication server as the redirection server instead of

Stockwell's ACLD software.

Examiner: The Examiner respectfully disagrees with Patent owner. In response to Patent owner

arguments against the references individually, one cannot show nonobviousness by attacking

references individually where the rejections are based on combinations of references. See *In re*

Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). Notice, Willens was relayed upon to teach the redirection server

and the modification limitations.

    In terms of Patentee's argument that Stockwell does not disclose redirection at any time

during a user session in response to an element or condition change, it is noted that all claims do

not require modification during a user session. For instance, claims 2-7, 9-14, and 44-67 do not

require any type of modification. Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van*

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As per claims 16-18, 23, 24, 26-43,

68-71 and 86-90, Willens was applied to the modification teachings.

Willens

PO: Patentee argues that Willens' rule set defers from that of the '118 patent. That is, Patent

owner states that the rule set of '118 patent is more than just a static packet filter, but includes

"elements or conditions" that are programmed into the redirection server to dynamically control

data packets moving from the user to a public network. However, Willens' rule does not include

any elements or conditions or the ability to modify itself during a user session in response to

those elements or conditions.

TPR: Requester states that Patent owner's assertion is inconsistent with the broadest reasonable

interpretation of the claims consistent with the '118 patent Specification. The '118 patent

Specification includes an example of "rule set" that is a static packet filter. (See '118 Patent, 6:4-

22.). Thus, Patent owner fails to distinguish Willens' teaching of the claimed "rule set."

Examiner: The Specification describes the rule sets at col. 4, lines 41-49 as follows:

> The rule sets specify elements or conditions about the user's session. Rule sets may
>
> contain data about a type of service which may or may not be accessed, a location, which
>
> may or may not be accessed, how long to keep the rule set active, under what condition
>
> the rule set should be removed, when and how to modify the rule set during a session.

During reexamination, claims are given the broadest reasonable interpretation consistent

with the specification and limitations in the specification are not read into the claims (In re

Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).   However, column four's

description of rule set does not limit the rule set to modification during a session. The rule set

may contain information about "when and how to modify the rule set during a session," but is not

limited to this function. Additionally, claims 2-7, 9-14, and 44-67 do not require any type of

modification.

The Examiner respectfully disagrees with Patentee that Willens does not teach any

elements or conditions or the ability to modify itself during a user session in response to those

elements or conditions. Willens teaches a permitted site list, which includes information

regarding which sites the user can access. The rule sets of '118 patent indicates that "rule sets

may contain data about a type of service which may or may not be accessed, a location which

may or may not be accessed...," which is the same as the information in Willens' permitted site

list.

As per claims 16-18, 23, 24, 26-43, 68-71, and 76-90, modification of the rule set is

required. Patentee argues that Willens fails to teach modification of the rule during a session in

response to elements or conditions. In response to Patent owner's argument that Willens fail to

show certain features of applicant's invention, it is noted that the features upon which Patentee

relies (i.e., the ability to modify rule during a user session in response to those elements or

conditions) are not recited in the rejected claim(s). Although the claims are interpreted in light

of the specification, limitations from the specification are not read into the claims. See *In re Van*

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Additionally, claims 16-18, 23, 24, 26-43, 68-71 recite " wherein the redirection server is configured to allow automated modification of at least a portion of the rule set as a function "of some combination of time, data transmitted to or from the user, or location the user accesses and wherein the redirection server is configured to allow modification of at least a portion of the rule set as a function of time," and claims 76-90 recites "modifying at least a portion of the user's rule set while the user's rule set remains correlated to the temporarily assigned network address in the redirection server," which is taught by Willens. The reference teaches "a system and process which uses dynamically down-doable user specific filters from a central server for content monitoring and user authorization in a network of networks." See col. 1, lines 9-12. In Willens, when a user logs in, the user is authenticated using his profiles. If the user's filter is not stored in cache, the client software sends a lookup request to the network access server, which stores the centralized permitted site list and filters to be used as masks for checking access classification of requires sites, to download the filter, which is maintained in the sever memory for the rest of the user's session. The server software automatically maintains the permit list by downloading updated versions of the list over the Internet and compiling the list for use by the client software. See col. 5, lines 9-46. Also, Willens teaches updating the list daily or hourly (see col. 4, lines 40-45). Thus, the filters of Willens allow automated modification of the rules as a function of time.

Redirection – Claims 5, 6, 12, 13, 31, 25, 48, 49, 50, 54, 55, 60, 61, 66, 67, 81, 82, and 89-90

PO: Patent owner argues that there is no disclosure in Stockwell of redirection that is part of a rule set or that the redirection can occur at any time during a user session in response to a change

in "elements or conditions." The queries of Stockwell do not occur during a session but only

before the user begins communication of data packets before the start of a session. Stockwell

does not redirect the data to and from the users' computers as a function of the individualized

rule set.

TPR: The Requester submits that Stockwell does disclose redirection as part of rule set (see

2:24-31). Stockwell also discloses that any rule can include redirection information (see 2:32-

47) and illustrates a specific example of a rule set with two rules (see 12:10-35).

Regarding Patent owner's argument that Stockwell do not occur during a session,

Requester notes that Patent owner does not explain how the claimed redirection could occur

before the user sends the data packet that is to be redirected. If there is no data packet, then there

is nothing to redirect. Second, a claim cannot be distinguished by arguing that the claim is

broader than the prior art. Redirection performed before "before the user begins communication"

is necessarily within the scope of redirection "at any time."

Lastly, Requester notes that "one cannot show nonobviousness by attacking references

individually where the rejections are based on combination of references." MPEP 2145(IV).

Examiner: The Examiner respectfully disagrees with Patent owner. The Examiner notes, in

response to Patent owner arguments against the references individually, one cannot show

nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re*

Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In terms of Patentee's argument that Stockwell does not disclose redirection at any time

during a user session in response to a change in element or condition, it is noted that all the

claims do not require modification during a user session. For instance, claims 5, 6, 12, 13, 31, 35, 48-50, 54, 55, 60-, 61, 66, and 67 do not require any type of modification. During reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (In re Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).

As for claims 81, 82, 89-90, these claims teach a modified rule set including redirecting data. However, Patent owner is arguing against the references individually. The Office action does not rely solely on Stockwell in rejecting these claims, but in the combination of Stockwell and Willens. Further, Willens teaches controlling access by routing packets. The filters of Willens control Internet access by permitting or denying access (see col. 5, line 57 - col. 6, line 22). As for Stockwell, the reference teaches an example filtering rule that "intercepts all incoming connection that go to the external side of the local Sidewinder (192.168.1.192) and redirects them to shade.sctc.com (172.17.192.48), see 2:29-31. Therefore, as indicated in the Office action, it would have been obvious to expand Willens' filtering capabilities by incorporating redirection filter rules, like those taught by Stockwell. The redirection feature would improve a similar device (the packet filter of Willens) in the same way. The combination is also obvious because it request only applying a known technique (redirection) to a known device (the packet filter of Willens) to yield predictable results (a packet filter with the ability to redirect packets). *KSR International Co. v. Teleflex Inc.,* 550 U.S. __, __, 82 USPQ2d 1385, 1395-98 (2007).)

As per Patent owner's argument that Stockwell redirection is not part of the rule set, Examiner agrees with the Requester. Stockwell teaches a rule that includes redirection (see col. 2, lines 24-47 and col. 12, lines 10-35).

Modification of the rule set - claims 16-18, 23, 24, 25-27, 36, 37, 38, 39, 42-43, 68-82, and 86-90

PO: Patent owner argues that Willens does not disclose, suggest or provide any motivation, and indeed, teaches away from, any correlation of the rule set to a temporarily assigned network address as required by the '118 patent. It is noted that Willens requires that the filter through which the user access the network is fixed and unchangeable throughout a user session.

Additionally, Patentee argues that Willens fails to teach removing or reinstating at least a portion of the rule set with respect to claim 27. Patent owner asserts that Willens does not teach or suggest provide any motivation for modification of a rule set during a user session; and does not disclose, suggest or provide any motivation for redirection during a user session.

TPR: The Requester submits that Willens teaches that the filter F(Timmy) includes references to filter lists, such as a "PTA List." (see Fig. 3, elements 54 & 52). Willens further teaches that the communication server 14 (the "redirection server") loads and caches the PTA List from ChoiceNet server 18 (Willens 5:64-6:7). Thus, communication server 14 does not permanently store the entire PTA List, but rather stores recently used portions of it in a temporary cache. Thus, Willens teaches that a portion of the rule set on communication server 14 –specifically, the cached portion of the PTA List - may be automatically modified. Thus, the ChoiceNet server 18

"automatically maintains the permit list by downloading updated versions of the list over the Internet," perhaps "on a daily or hourly basis." (Willens 5:41-43, 4:43-44.).

Regarding claim 27, Requester submits that in view of Willens' teaching to automatically update a filter list on ChoiceNet server 18, it would have been obvious to update any filter lists in active use on communications server 14. For example, when an error in a school's filter list is discovered – whether it be a harmful site that is allowed or an educational site that is blocked- it would have been obvious for a teacher or school administrator to be able to correct the filter list and have the change applied to all students immediately. Without such a capability, a teacher's lesson plan might be thrown into disarray because access to needed website is being inadvertently blocked. For at least this motivation, it would have been obvious that automatic updates could be sent not just to ChoiceNet server 18, but also to communications server 14. Additionally, Requester notes that a teacher's lesson plan might require students to access a website that would ordinarily be blocked, e.g., to watch an educational video on a popular general-purpose video on a popular general-purpose video sharing site.

Regarding claims 29, 33, 41, 52, 64, and 87, Requester notes that the claims do not recite that the temporary rule set be applied during a user session and that the claims do not refer to a user session at all. Instead, the claims recite utilize the temporary rule set for an initial period of time.

As per teaching away, Requester states that there is no evidence of the supposed teaching away.

Examiner:

Correlation of the rule set to a temporarily assigned network address

The Examiner respectfully submits that even though the Patent owner suggests that the

references are opposite and incompatible systems, this is not evidence that the applied reference

teaches away from the invention. It has been held that prior art reference must be considered in

its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.

W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983),

cert. denied, 469 U.S. 851 (1984).

In this case, Patent owner argues that Willens fails to teach any correlation of the rule set

to a temporarily assigned network address as required by the '118 patent and that filter is fixed

throughout the user's session. However, the Examiner respectfully disagrees. The claims recite

"wherein the redirection server is configured to allow automated modification of at least a

portion of the rule set correlated to the temporarily assigned network address," which is taught

by Willens. The reference discloses a communication server (redirection server) that stores

recently used portions of a PTA list in a temporary cache (see col. 5, lines 64- col. 6, line 9); so,

the rule set (PTA list) is correlated to a temporarily assigned network address (cache).

In Willens, this list is automatically maintained by the server software and updated

versions are downloaded over the Internet to be used by the client software (see col. 5, lines 37-

45). The client software uses this list when a user logs in to grant or deny access. As expressed

by Willens, the downloaded filters are maintained in the sever memory for <u>the rest of the user's</u>

<u>session</u> and the server software <u>automatically</u> maintains the permit list by downloading <u>updated</u>

versions of the list over the Internet and compiling the list for use by the client software. See col.

5, lines 9-46. Also, Willens teaches updating the list daily or hourly (see col. 4, lines 40-45).

Since the list is automatically maintained (i.e. by downloading updated versions of the list to the

client software) for the rest of the user's session, this implies that such updating occurs while the

user is still connected (during the user's session).

Claim 27

Regarding claim 27, the Examiner agrees with Patent owner that Willens does not teach

removal or reinstatement of at least a portion of the rule set as function of one or more of: time,

the data transmitted to or from the user or locations the user accesses. Willens discloses

modifying the list of sites a user is permitted to access. The reference states that "the subsystem

12 provides a central, sever based permit list that can be easily updated on a daily or hourly

basis." Also, "Willens teaches modifying a user's filtering rules based on a user's accessing of a

login location and providing login information, such as password." See page 21 of Exhibit AA.

Although Willens teaches updating the permit list, the update does not necessarily

include "removal or reinstatement" of a portion of the rule set. The process of updating requires

making information current; thus, the action of deleting or restoring data is not compulsory.

That is, updating could include inserting new data. Willens does not expressly define updating

as reinstating data or removing data. Therefore, this rejection is withdrawn.

Modification of a rule set during a user session

Regarding Patentee's argument that Willens does not teach or suggest any motivation for

modification of a rule set during a user session, the Examiner respectfully disagrees. '118 patent

specification describes the rule set at col. 4, lines 41-49 as follows:

> The rule set specify elements or conditions about the user's session. Rule sets may
>
> contain data about a type of service which may or may not be accessed, a location, which
>
> may or may not be accessed, how long to keep the rule set active, under what condition
>
> the rule set should be removed, when and how to modify the rule set during a session.
>
> During reexamination, claims are given the broadest reasonable interpretation consistent

with the specification and limitations in the specification are not read into the claims (In re

Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)). However, column four's

description of rule set does not limit the rule set to modification during a session. The rule set

may contain information about "when and how to modify the rule set during a session," but is

not limited to this function.

The Examiner notes that Willens teaches a rule set including elements or conditions or

the ability to modify itself during a user session in response to those elements or conditions.

Willens teaches a permitted site list, which includes information regarding which sites the user

can access. The rule sets of '118 patent indicates that "rule sets may contain data about <u>a type of</u>

<u>service which may or may not be accessed, a location which may or may not be accessed</u>...,"

which is the same as the information in Willens' permitted site list.

Redirection during a user session

Claims 16-18, 23, 24, 26 and 28-43, 68-71 recite " wherein the redirection server is

configured to allow automated modification of at least a portion of the rule set as a function "of

some combination of time, data transmitted to or from the user, or location the user accesses and

wherein the redirection server is configured to allow modification of at least a portion of the rule

set as a function of time," and claims 76-90 recites "modifying at least a portion of the user's rule

set while the user's rule set remains correlated to the temporarily assigned network address in the

redirection server," which is taught by Willens. The reference teaches "a system and process

which uses dynamically down-doable user specific filters from a central server for content

monitoring and user authorization in a network of networks." See col. 1, lines 9-12. In Willens,

when a user logs in, the user is authenticated using his profiles. If the user's filter is not stored in

cache, the client software sends a lookup request to the network access server, which stores the

centralized permitted site list and filters to be used as masks for checking access classification of

requires sites, to download the filter, which is maintained in the sever memory for <u>the rest of the</u>

<u>user's session</u>. The server software <u>automatically</u> maintains the permit list by downloading

<u>updated versions of the list</u> over the Internet and compiling the list for use by the client software.

See col. 5, lines 9-46. Also, Willens teaches updating the list daily or hourly (see col. 4, lines

40-45). Thus, the filters of Willens allow automated modification of the rules as a function of

time.

As per Patent owner's argument that Willens does not teach redirection during the user

session, the Examiner respectfully disagrees. The Examiner notes that the claims do not limit

redirection to occur only "during a sessions." The claims do not expressly define the user

session, and it is noted that the features upon which Patent owner relies (i.e., redirection

occurring during a user session and temporary rule set is applied during a user session) is not

recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Rejection of claims 2-7, 9-14, 16-18, 23, 24, 26-71, 76-84 and 86-90 under 35 U.S.C. 103(a) over Willens in view of RFC 2138 and Admitted Prior Art

PO: Patent owner argues that for the same reasons set forth in Section III (which is labeled

"combining references" at pages 3 and 4 of this Action), the rejection proposed at Exhibit AA,

pages 56-112, should be withdrawn, since the rejection is essentially the same, citing only the

addition of the Admitted Prior Art.

Patentee states that the Admitted Prior Art teaches redirection occurring only at the

destination URL after access to the network has been granted. Again, it is noted that granting

access to the network before executing a redirection action specified by the rule set of '118

patent would effectively defeat the purpose of controlling access to the network in the first

instance. Redirection at the user side is not taught by the Admitted Prior Art.

Patent owner asserts that nowhere did the Board consider that the prior art only teaches

redirection at a destination address among other limitations and requirements of claims 1, 8, 15,

and 25.

TPR: See pages 3 and 4 for Requester's comments regarding Section III.

Requester asserts that Patent owner's arguments fail because they are unrelated to any

limitations in the claims. For example, the claims do not recite a purpose.

Additionally, the Requester notes that claims 5, 6, 12, 13, 31, and 35 do not recite any such "between" limitation.

Requester submits that the Examiner's rejection did not rely on the Admitted Prior Art as teaching the claimed "redirection server" in its entirety. It was further known that redirection was not limited to web pages, but was "valid for all IP services." (See '118 patent 1:40-42). For the reasons explained in the Request, it would have been obvious to incorporate IP packet redirection (as taught by the Admitted Prior Art) into Willens' communications server 14. With this obvious addition of a redirection capability, the communications server is a "redirection server" located "between" the user and the network and capable of blocking, allowing, or redirecting data packets according to a user's individuated rules.

It is noted that "one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references." MPEP 2145(IV).

Examiner: The Examiner respectfully disagrees with Patent owner.

During reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (In re Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).

In response to Patent owner argument that the references fail to show certain features of the invention, it is noted that the features upon which Patent owner relies (i.e., the redirection at the user side is for the purpose of controlling to the network itself, not network elements; and in claims 5, 6, 12, 13, 31, and 35 – redirection server is located between the user computer and the network) are not recited in the rejected claim(s). Although the claims are interpreted in light of