

## EXHIBIT A9

### Summary of Invalidity Analysis of U.S. Patent No. 6,651,099 (“’099 Patent”) in view of U.S. Patent No. 6,412,000 (“Riddle”), further in view of WO 92/19054 (“Ferdinand”), further in view of WO 97/23076 (“Baker”), and further in view of U.S. Patent No. 6,625,150 (“Yu”)

U.S. Patent No. 6,412,000 (“Riddle”), issued on June 25, 2002, qualifies as prior art to the ’099 Patent under 35 U.S.C. § 102(e) because it was filed on November 23, 1998, before the June 30, 1999 filing date of the provisionally issued patent which the ’099 Patent claims priority. Riddle further qualifies as prior art to the ’099 Patent under at least Pre-AIA 35 U.S.C. § 102(e) since a U.S. patent has an effective prior art date under pre-AIA 35 U.S.C. § 102(e) based on the filing date of an earlier-filed application if the patent’s relevant subject matter is described in the earlier-filed application, and at least one of the claims supported by the earlier-filed application’s written description in compliance with pre-AIA 35 U.S.C. § 112, first sentence. Riddle was an earlier-filed application that issued as Riddle was filed on November 23, 1998. Riddle claims priority to U.S. Provisional Patent Application No. 60/066,864 (“’864 Provisional”), which was filed on November 25, 1997.

Riddle and the related ’864 Provisional incorporate-by-reference the following patent applications in their entirety:

- U.S. Patent Application No. 09/198,051 (“’051 Application”);
- U.S. Patent Application No. 08/762,828, issued as U.S. Patent No. 5,802,106;
- U.S. Patent Application No. 08/977,642 (“Packer Application”), having attorney docket number 08-00000001, issued as U.S. Patent No. 6,046,980 (“Packer”); and
- U.S. Patent Application No. 08/742,994, issued as U.S. Patent No. 6,038,216.

WO 92/19054 (“Ferdinand”), published on October 29, 1992, qualifies as prior art to the ’099 Patent under 35 U.S.C. § 102(b) because it was published more than one year before the June 30, 1999 filing date of the provisionally issued patent which the ’099 Patent claims priority.

WO 97/23076 (“Baker”), published on June 26, 1997, qualifies as prior art to the ’099 Patent under at least 35 U.S.C. § 102(b) because it was published more than one year before the June 30, 1999 filing date of the provisionally issued patent which the ’099 Patent claims priority.

U.S. Patent No. 6,625,150 (“Yu”), issued on September 23, 2003, qualifies as prior art to the ’099 Patent under 35 U.S.C. § 102(e) since a U.S. patent has an effective prior art date under pre-AIA 35 U.S.C. § 102(e) based on the filing date of an earlier-filed patent application if the patent’s relevant subject matter is described in the earlier-filed application, and at least one of the claims supported by the earlier-filed application’s written description in compliance with pre-AIA 35 U.S.C. § 112, first sentence. Yu was an earlier-filed patent application that issued as Yu was filed on September 23, 2003. Yu claims priority to U.S. Provisional Patent Application No. 60/046,150 (“’00 Provisional”), which was filed on September 23, 2000.

## EXHIBIT A9

paragraph. The application that issued as Yu was filed on December 16, 1999. Yu claims priority to U.S. Provisional Application No. 60/112,859 (“859 Provisional”), which was filed on December 17, 1998.

EXHIBIT A9

<b>Invalidity of U.S. PATENT NO. 6,651,099 in view of Riddle et al.</b>	
<b>CLAIM LANGUAGE</b>	<b>Exemplary Citations to Riddle et al.</b>
<p>1 A packet monitor for examining packets passing through a connection point on a computer network in real-time, the packets provided to the packet monitor via a packet acquisition device connected to the connection point, the packet monitor comprising:</p>	<p>U.S. Patent No. 6,412,000 (“Riddle”) discloses a packet monitor for examining packets passing through a connection point on a computer network. The packets provided to the packet monitor via a packet acquisition device connected to the connection point.</p> <p>For example:</p> <p>“In a packet communication environment, a method is provided for automatically classifying packet flows for use in allocating bandwidth resources and the like by a rule of assignment of a service level. The method comprises applying individual instances of traffic classification paradigms to packet network flows based on selectable information obtained from a plurality of layers of a multi-layered communication protocol in order to define a characteristic traffic class, then mapping the flow to the defined traffic class. It is useful to note that the automatic classification is sufficiently robust to classify a complete enumeration of the possible traffic.” Riddle, 4:6-17.</p> <p>“According to the invention, in a packet communication environment, a method is provided for automatically classifying packet flows for use in allocating bandwidth resources and the like by a rule of assignment of a service level. The method comprises applying individual instances of traffic classification paradigms to packet network flows based on selectable information obtained from a plurality of layers of a multi-layered communication protocol in order to define a characteristic traffic class, then mapping the flow to the defined traffic class. It is useful to note that the automatic classification is sufficiently robust to classify a complete enumeration of the possible traffic.” Riddle, 4:6-17.</p> <p>“3.2 Automatic Traffic Classification Processing FIG. 3 depicts components of a system for automatically classifying packet flows to the invention. A traffic tree 302 in which new traffic will be added to a particular member class node. A traffic classifier 304 detects incoming traffic. Alternatively, the classifier may start with a service level and use it. A knowledge base 306 contains heuristics for determining a traffic class. The knowledge base may be embodied in a file or a relational database.” Riddle, 4:6-17.</p>

EXHIBIT A9

embodiment, the knowledge is contained within a data structure. A plurality of saved lists 308 stores classified traffic pending in a tree 302. In select embodiments, entries for each instance of alternate embodiments, a copy of an entry and a count of duplicates is maintained.” Riddle, 12:27-41.

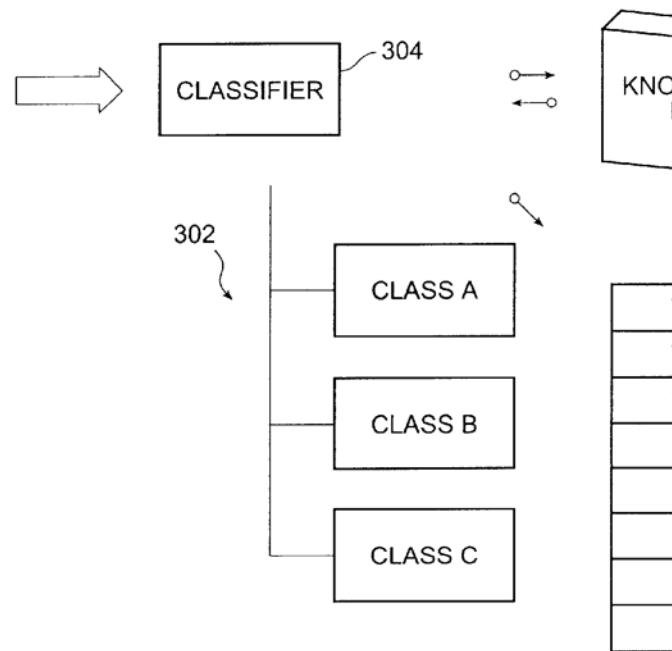


FIG. 3

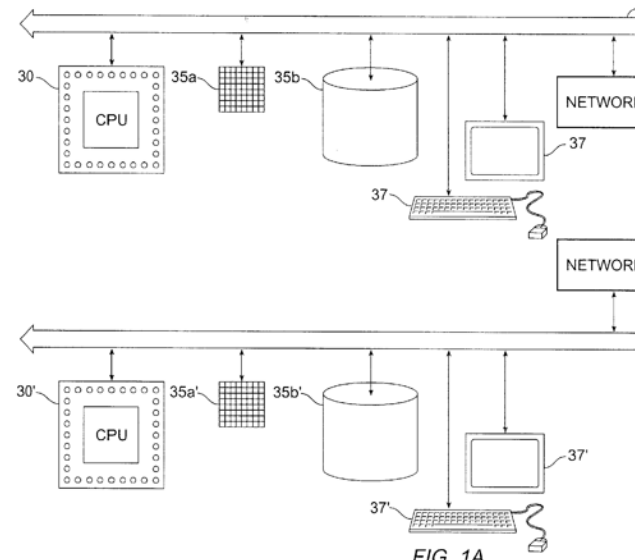
Riddle, Fig. 3.

“The method for automatically classifying heterogeneous packet traffic in a telecommunications environment of the present invention is implemented in a programming language and is operational on a computer system 1A. This invention may be implemented in a client-server environment. A client-server environment is not essential. This figure shows a conventional

EXHIBIT A9

computer system which includes a server 20 and numerous c shown as client 25. The use of the term "server' is used in the wherein the server receives queries from (typically remote) c all the processing necessary to formulate responses to the qu responses to the clients. However, server 20 may itself act in when it accesses remote databases located at another node ac

The hardware configurations are in general standard and wil In accordance with known practice, server 20 includes one o which communicate with a number of peripheral devices via These peripheral devices typically include a Storage Subsystem memory subsystem 35a and a file storage subsystem 35b hold (e.g., code or instructions) and data, a set of user interface in and an interface to outside networks, which may employ Eth IEEE 802.3, ITU X.25, Serial Link Internet Protocol (SLIP) telephone network. This interface is shown schematically as block 40. It is coupled to corresponding interface devices in network connection 45." Riddle, 5:53-6:15.



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