

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LEADER TECHNOLOGIES, INC.,)	
a Delaware corporation,)	
)	
Plaintiff-Counterdefendant,	)	Civil Action No. 08-862-LPS
)	
v.)	
)	
FACEBOOK, INC.,)	
a Delaware corporation,)	
)	
Defendant-Counterclaimant.)	

**PLAINTIFF LEADER TECHNOLOGIES, INC.'S OPPOSITION TO DEFENDANT
FACEBOOK, INC.'S MOTION FOR SUMMARY JUDGEMENT OF INVALIDITY
OF CLAIMS 1, 4, 7, 21, 23, 25, 31 AND 32 OF U.S. PATENT NO. 7,139,761**

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STATUTES

35 U.S.C. § 112 1, 6, 9, 11

35 U.S.C. § 282 6

I. NATURE AND STAGE OF THE PROCEEDINGS

Leader Technologies, Inc. (“Leader”) asserted Claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31 and 32 of U.S. Patent No. 7,139,761 (“’761 Patent”) against Facebook Inc. (“Facebook”). At this stage of the proceedings, the trial has ended and the jury has rendered a verdict. (D.I. 610). Pursuant to the Court’s July 16th and August 5th, 2010 Orders, Leader submits this answering brief in opposition to Facebook’s pending motion for summary judgment of invalidity of Claims 1, 4, 7, 21, 23, 25, 31, and 32 (D.I. 382) and supporting brief (D.I. 384) (“Motion”). Leader previously filed a Counter-Statement to Facebook’s Statement of Material Facts concerning Facebook’s Motion. (D.I. 513) (“Counter-Statement”).

II. SUMMARY OF THE ARGUMENT

Facebook has failed to meet its heavy burden of proving by clear and convincing evidence that any claim of the ‘761 Patent is invalid as indefinite under 35 U.S.C. §112. It is well settled that a claim is only considered indefinite if one of skill in the art is not reasonably apprised of its scope. In other words, because a claim is presumed valid, a claim is indefinite only if the claim is insolubly ambiguous. Here, Facebook has not provided the Court with *any* evidence, intrinsic or extrinsic, that a person of ordinary skill in the art could not determine the bounds of the claim, *i.e.*, that the claims are insolubly ambiguous. Instead, all of the evidence in this case demonstrates that the ‘761 Patent contains a definite set of claims. This evidence conclusively shows that (1) those skilled in the art know the scope of the claims; (2) the narrow holding of *IPXL* does not apply because the limitations of the apparatus claims at issue are written in functional language and are not mixed apparatus/method claims; (3) Facebook waived its indefinite arguments during claim construction by attempting to construe the key terms of the phrases at issue; and (4) all of the undisputed facts in this case preclude summary judgment.

As a preliminary matter, computer systems and applications are almost always *interactive* systems. This means they perform certain functions in response to user action. Because the vocabulary of computer science is relatively limited as most systems are described as having various “components” or “modules,” computer systems are typically described by how those

components operate. Similarly, to protect computer systems under the patent laws, claims are often written in functional language in order to describe the types of components being protected. In other words, computer software patents typically describe a computer program by what the various components do. The '761 Patent is no exception. It is written in functional language to describe the innovative computer systems and programs by what they do. For example, the system claims of the '761 Patent describe two components, a context component and tracking component. Because those are fairly common terms which can mean a variety of things, the '761 Patent defines those components by their capabilities.

The use of functional language is best explained with an analogy. Imagine a claim that is directed to "an engine that starts when a user turns a key." This claim is clearly written in functional language to describe a particular type of engine, *i.e.*, one that starts when a key is turned. An infringing engine is simply an engine that has this capability. It does not matter whether a user actually turns the key, infringement is found as long as the engine is designed in such a way that it starts when a key is turned. An engine that starts when a user pushes a button would not infringe because this is not the type of engine that is claimed.

The system claims of the '761 Patent are similar. They describe two components, a context component and a tracking component, in functional language to delineate the types of components that they are. The tracking component, which is the component that Facebook takes issue with, is simply written with functional language to describe a particular type of tracking component. In one example, the tracking component of the '761 Patent is one that dynamically updates metadata when a user accesses data from a second context. An infringing tracking component is one that is built with this functionality, *i.e.*, the ability to dynamically update metadata when a user accesses data from a second context. It is immaterial for infringement purposes whether a user actually uses this component. The only relevant inquiry is whether the tracking component has the capability of allowing a user to perform this function.

Because the claims of the '761 Patent define the computer components by what they do -- a permissible means of articulating a claim limitation -- they do not include both a system and the

method of using that system. Accordingly, for the reasons discussed herein, Facebook's motion for summary judgment should be denied.

III. STATEMENT OF FACTS

A. The Technology of the '761 Patent

The '761 Patent discloses an interactive network-based computer system that is an online collaboration tool that facilitates efficient communication, organization, and content sharing between users and allows multiple users to share and use electronically stored content over a network. Ex. A¹ at Col. 3, l. 8 - Col. 4, l. 36; Col. 20, l. 63. The '761 Patent performs these functions using two primary components, one for context and one for tracking. In one example, the context component of the '761 Patent captures context information associated with user-defined data and stores this information in metadata. *Id.* at Col. 20, l. 65 - Col. 21, l. 6. The tracking component tracks a user as they move between contexts and dynamically updates the metadata when a user accesses data from a different context. *Id.* at Col. 21, ll.7-12

B. Claims 1, 21 and 23 of the '761 Patent

Claims 1 and 23 of the '761 Patent are directed to networked based computer systems. While Claims 1 and 23 are both system claims and contain context and tracking components, contrary to what Facebook alleges in its Motion, the components are not the same. Claims 1 and 23, respectively, are reproduced below:

1. A computer-implemented network-based system that facilitates management of data, comprising:
 - a computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user interaction of a user in a first context of the network-based system, the context component dynamically storing the context information in metadata associated with the user-defined data, the user-defined data and metadata stored on a storage component of the network-based system;
 - and a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically

¹ "Ex." refers to the exhibits attached to the Declaration of Yuridia Caire in Support of Plaintiff Leader Technologies, Inc.'s Opposition to Defendant Facebook, Inc.'s Motion for Summary Judgment of Invalidity of Claims 1, 4, 7, 21, 23, 25, 31, and 32 of U.S. Patent No. 7,139,761.

updating the stored metadata based on the change, wherein the user accesses the data from the second context.

Ex. A at Col. 20, l. 63 - Col. 21, l. 12.

23. A computer-implemented system that facilitates management of data, comprising:

a computer-implemented context component of a web-based server for defining a first user workspace of the web-based server, assigning one or more applications to the first user workspace, capturing context data associated with user interaction of a user while in the first user workspace, and for dynamically storing the context data as metadata on a storage component of the web-based server, which metadata is dynamically associated with data created in the first user workspace;

and a computer-implemented tracking component of the web-based server for tracking change information associated with a change in access of the user from the first user workspace to a second user workspace, and dynamically storing the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace.

Id. at Col. 23, ll. 20-37.

Claim 1 describes a context component that is capable of capturing context information associated with user-defined data and storing the context information in metadata. Claim 23, however, describes a context component that is capable of defining a user workspace, assigning applications to the workspace, and capturing context data associated with user interaction and storing that data as metadata on a web-based server. As shown, even though both claims recite a context component, they are different types of context components defined by what they do.

Similarly, Claims 1 and 23 describe two different tracking components. The tracking component of Claim 1 tracks a user and dynamically updates metadata in which a user accesses data from a second context. The tracking component of Claim 23 tracks information associated with a change in access of a user and dynamically stores the change information on the storage component as part of the metadata in which a user accesses data from a second user workspace. Again, while both claims describe a tracking component, the tracking components are different based on their capability as recited in the claims.

Instead of reciting a system, Claim 21 covers a computer-readable medium with computer executable instructions. In other words, Claim 21 is directed toward a computer program as

computer programs are typically a series of computer instructions stored in memory or on disk.

Specifically, Claim 21 covers:

21. A computer-readable medium for storing computer-executable instructions for a method of managing data, the method comprising:
creating data related to user interaction of a user within a user workspace of a web-based computing platform using an application;
dynamically associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace;
tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform;
dynamically associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace;
and indexing the data created in the user workspace such that a plurality of different users can access the data via the metadata from a corresponding plurality of different user workspaces.

Id. at Col. 22, ll. 46-67.

In describing the computer program, Claim 21 recites a number of executable computer instructions. These computer instructions are not steps of a method in that they must be performed by a user, rather they are instructions for a computer that have been coded into a piece of software. An infringing piece of software is one that has the ability to execute these claimed instructions regardless of whether the software is actually executed.

C. Prosecution History

During the prosecution of the '761 Patent, the Examiner made an amendment to the claims in order to grant the application in a condition for allowance. Ex. B; *see also* Ex. G, Tr. 1579:23-1580:2. With regard to Claim 1 as an example, the Examiner amended the claim to replace the term "automatically" with "dynamically." Ex. B at LTI 000670; *see also* Ex. G, Tr. 1580:21-1581:1. The Examiner also added the event which triggers the dynamic function in the Examiner's amendment. Specifically, the Examiner added the language "wherein the user accesses the data from the second context" as the triggering function. Similar amendments were made to all pending claims. *Id.*; *see also* Ex. G, Tr. 1580:16-20.

IV. ARGUMENT

Claims of a patent are required to “particularly point[] out and distinctly claim[] the subject matter which the applicant regards as his invention.” 35 U.S.C §112. “A claim is considered indefinite if it does not reasonably apprise those skilled in the art of its scope.” *IPXL Holdings, Inc. v. Amazon.com, Inc.*, 430 F.3d 1377, 1384 (Fed. Cir. 2005)(citation omitted). Because a claim is presumed valid, “a claim is indefinite only if the ‘claim is insolubly ambiguous.’” *Honeywell Int’l, Inc. v. International Trade Comm’n*, 341 F.3d 1332, 1338-39 (Fed. Cir. 2003)(quoting *Exxon Rsrch. & Eng’g Co. v. United States*, 265 F.3d 1371, 1375 (Fed. Cir. 2001)). The sole basis of Facebook’s Motion turns on whether the tracking component (or the executable instructions of the tracking component) is indefinite *ipse facto* because it contains functional language, such that the very limited holding of *IPXL* should be followed because the claims contain “both a system and the method for using that system.” *IPXL*, 430 F.3d at 1383.

Even a cursory reading of the claims show that the ‘761 Patent is just like most other computer software patents and contains language that defines the components by what they do. The scope of the claims is clear and describes particular types of components that react to user action. Anyone reading the ‘761 Patent would know that if they designed components with similar features, they would meet the elements of the claims and be liable for infringement regardless of whether a user actually used the system. In other words, infringement turns on the capability of the infringing components, not whether the components are put to use.

A. Facebook Did Not Even Attempt to Meet the Clear and Convincing Burden Required for Indefiniteness

Under 35 U.S.C. §282, the ‘761 Patent is presumed valid. Accordingly, for its claims of indefiniteness, Facebook must “prove patent invalidity under the clear and convincing evidentiary standard.” *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1365 (Fed. Cir. 2004)(citation omitted). The Federal Circuit has repeatedly held that “[i]f the meaning of the claim is discernible, even though the task may be formidable and the conclusion may be one over which reasonable persons will disagree, [this Court has] held the claim sufficiently clear to avoid invalidity on indefiniteness grounds.” *Exxon Rsrch.*, 265 F.3d at 1375 (citation omitted). The evidence

required to prove a claim indefinite is such an exacting standard because claim construction often poses a difficult task over which “expert witnesses, trial courts, and even the judges of [the Federal Circuit] may disagree.” *Id.* Therefore, the standard is only met where an accused infringer shows by clear and convincing evidence that the boundaries of the claim, are not “discernible to a skilled artisan based on the language of the claim, the specification, and the prosecution history, as well as her knowledge of the relevant field of art.” *See, e.g., Funai Elec. Co. v. Daweoo Elecs. Corp.*, Nos. 2009-1225, 2009-1244, 2010 WL 3421374, at *11 (Fed. Cir. Sept. 1, 2010).

Facebook’s Motion fails because it consists entirely of three conclusory paragraphs² of attorney argument, and *does not cite to a single source of intrinsic or extrinsic evidence* to support its argument. As such, Facebook has not met its burden to prove the ‘761 Patent is invalid because it “bases its indefiniteness challenge entirely on attorney argument” and “d[oes] not adduce any evidence to substantiate its claim of indefiniteness.” *Mallinckrodt, Inc. v. Masimo Corp.*, 147 Fed.Appx. 158, 179 (Fed. Cir. 2005) (claims found to be definite because defendants failed to show that skilled artisan would not understand the scope of the claims). Moreover, Facebook fails to “qualify or distinguish in any way” the actions of the USPTO and all of the experts in this case who have not “encounter[ed] difficulty in ascertaining” the scope of the claims at issue. *Id.* at 179-80. Accordingly, Facebook’s deficient motion should be denied because it does *not* contain any summary judgment evidence to support its claim.

Facebook’s lack of evidence is particularly shocking since the intrinsic evidence in the prosecution history is inextricably linked to the claim language Facebook takes issue with. Specifically, Facebook argues that the claim language “the user accesses the data” improperly combines two statutory classes of the claims.³ D.I. 384 at 8. However, what Facebook fails to

² Argument sections A, B and C of Facebook’s Motion are directed solely to the legal standards and case law summaries regarding indefiniteness, and make no mention of the claims of the ‘761 Patent. Facebook finally makes its arguments regarding indefiniteness of the ‘761 Patent claims in argument section D on page 8 of 9 in the Motion. D.I. 384 at 8-9.

³ The claim language for Claim 21 that Facebook objects to, on the same grounds as Claims 1 and 23, is “the user employs the application and data.” D.I. 384 at 8-9.

mention is that this is the precise language that the Examiner added to the claims during prosecution to put the claims in condition for allowance. *See* Ex. B.

In the Patent Office's Notice of Allowance of the '761 Patent, the Examiner permitted the claims of the '761 Patent to issue on the condition that an "examiner's amendment to the record" was acceptable to the applicant. *Id.* With regard to Claim 1, the amendment required by the Examiner included changing the word "automatically" to "dynamically" and adding the language "wherein *the user accesses the data* from the second context," which is the very language that Facebook alleges makes the claims invalid. *Id.* (emphasis added). Stated another way, the language the Patent Office *required* Leader to add to its claims to confirm patentability is the *same* language Facebook argues the Court should use to deny patentability of the claims.

It is not surprising that Facebook chose to ignore this critical intrinsic evidence, as it weighs heavily against its Motion. In evaluating indefiniteness, the court should consider the actions of the Patent Examiner during prosecution. In this case, it was the Examiner who wrote the disputed claim language and defined the capability of the tracking component. Specifically, the Examiner required the tracking component to operate "dynamically" and perform certain actions "wherein a user accesses data from a second context" in order to overcome the prior art. Facebook's failure to address this key intrinsic evidence is fatal to its Motion because the Examiner presumably understood the scope of the claims with the limitations that she drafted.

Facebook also failed to cite to a single source of extrinsic evidence, such as how one skilled in the art would have viewed the '761 Patent claims. While the "determination of claim indefiniteness is a legal conclusion that is drawn from the court's performance of its duty as the construer of patent claims," *Personalized Media Communs., LLC v. International Trade Comm'n*, 161 F.3d 696, 705 (Fed. Cir. 1998)(citation omitted), "[the] court may consider or reject certain extrinsic evidence in resolving disputes en route to pronouncing the meaning of claim language... 'to assist in its construction of the written document.'" *Exxon Rsrch.*, 265 F.3d at 1375 (quoting *Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448, 1454 (Fed. Cir. 1998)). Additionally, the factual nature of the inquiry in this case makes it amenable to a "factual finding necessary to provide

substantial evidence in support of its conclusion.” *BJ Servs. Co. v. Halliburton Energy Servs., Inc.*, 338 F.3d 1368 (Fed. Cir. 2003)(citation omitted).

Here, Facebook failed to provide the Court with *any* extrinsic evidence to support its conclusion of invalidity -- likely due to the fact that all the evidence presented in this case supports the validity of these claims. Indeed, all four experts in this case were able to determine the scope of the ‘761 Patent at trial. Based on the experts’ testimony, the jury was also able to determine the scope of the claims in finding that Facebook infringed the asserted claims. Moreover, Dr. James Herbsleb’s declaration submitted in support of this opposition conclusively demonstrates the claims are not “insolubly ambiguous.” See Declaration of James Herbsleb⁴; see also *Microprocessor Enhancement Corp., v. Texas Instruments, Inc.*, 520 F.3d 1367, 1374 (Fed. Cir. 2008). Every person of ordinary skill in the art who reviewed the claims in this case understood the bounds of the claim, and Facebook has failed to provide any evidence to the contrary. Because Facebook did not even try to meet its burden of proof, summary judgment is not warranted.

B. The ‘761 Claims Are Definite Because They Were Readily Understood by Those Skilled in the Art

The primary purpose of 35 U.S.C. § 112 ¶ 2 is to give notice to the public of the limits of the invention. See, e.g., *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563 (Fed. Cir. 1991). As such, only claims that are insolubly ambiguous are indefinite. See *Microprocessor Enhancement*, 520 F.3d at 1374. A patent claim is not indefinite under 35 U.S.C. § 112 ¶ 2 if a person of skill in the art is apprised of its scope. See *IPXL*, 430 F.3d at 1383-84.

1. The ‘761 Patent Describes Tracking Components In Permissible Functional Language

Claims 1 and 23 of the ‘761 Patent describe two different tracking components. In order to distinguish between the tracking components, the ‘761 Patent describes the tracking components in terms of what they do -- a permissible means of articulating a claim limitation, as a “patent

⁴ Declaration of James Herbsleb In Support Of Plaintiff Leader Technologies Inc.’s Opposition to Defendant Facebook Inc.’s Motion for Summary Judgment of Invalidity of Claims 1, 4, 7, 21, 23, 25, 31, and 32 of U.S. Patent 7,139,761 (“Herbsleb Decl.”) filed herewith.

applicant is free to recite features of an apparatus either structurally or functionally.” *In re Schreiber*, 128 F.3d 1473, 1478 (Fed. Cir. 1997)(“[T]here is nothing intrinsically wrong with [defining something by what it does rather than what it is] in drafting patent claims.”)(citing *In re Swinehart*, 439 F.2d 210, 212 (CCPA 1971)); *see also Ricoh Co. v. Katun Corp.*, 486 F.Supp.2d 395, 402 (D.N.J. 2007)(“It is well-settled law that a functional limitation--an attempt to define something by what it does rather than by what it is--is a permissible means of articulating a claim limitation.”)(citation omitted). Specifically, Claim 1 describes a tracking component that “dynamically update[es] the stored metadata based on the change, wherein the user accesses the data from the second context.” Ex. A at Col. 21, ll. 10-12. In other words, the tracking component of Claim 1 has the capability of updating the metadata when a user accesses data from a second context with information about the second context. If a component in the system has this capability built in, it meets this claim element.

Claim 23 describes a tracking component that “dynamically stor[es] the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace.” Ex. A at Col. 23, ll. 35-37. While similar, the tracking component of Claim 23 is different because it requires the capability of storing change information as part of the metadata when a user accesses data from another workspace. Again, as long as a component in a system contains this functionality, it meets this claim element, regardless of whether the system is actually put to use.

Claim 21, on the other hand, describes the computer instructions for a computer program. It includes a computer instruction for “dynamically associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace.” Ex. A at Col. 22, ll. 60-63. Thus, an infringing computer program is one that is capable of associating data with the workspace that a user employs it from.

Facebook’s argument that the functional language in the apparatus claims make these claims indefinite *ipso facto* is contrary to a long history of legal precedent. *See, e.g., In re Swinehart*, 439 F.2d at 212. Moreover, there is nothing in these claim elements that requires action by the user.

Indeed, the claim language Facebook objects to is merely describing the types of tracking components and computer instructions, and does not require the user to perform any action in order to infringe. Just because the claims recite “dynamically updating the stored metadata based on the change, wherein *the user accesses the data* from the second context” or “dynamically associating the data and the application with the second user workspace in the metadata such that *the user employs the application and data* from the second user workspace,” does not mean the user has to perform any action in order to meet the claim elements. Ex. A at Col. 21, ll. 10-12; Col. 22, ll. 60-63; and Col. 23, ll. 31-37 (emphasis added). Instead, it only means that the system must contain components that have these capabilities, *i.e.*, dynamically responding to a user accessing or employing data. If the system was never put to use, just like if a user never turned the key to start the engine, the manufacturer would still infringe if they built a system, computer program or engine that has the capability recited in the claims.

2. All of the Evidence in this Case Demonstrates that the ‘761 Patent Claims Are Understood by Those Skilled in the Art

A claim is definite under 35 U.S.C. § 112 ¶ 2 if “one skilled in the art would understand the bounds of the claim when read in light of the specification.” *Personalized Media*, 161 F.3d at 705 (quoting *Miles Labs., Inc. v. Shandon, Inc.*, 997 F.2d 870, 875 (Fed. Cir. 1993)). Thus, “[i]f the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, § 112 demands no more.” *Miles Labs.*, 997 F.2d at 875 (citation omitted). Facebook’s contentions that Claims 1, 21 and 23 are indefinite are against the weight of the evidence because both parties put forward considerable evidence throughout the entire case and at trial to show that a person of ordinary skill in the art would understand the claim language.

Each of Facebook’s experts understood the scope of the claims during expert discovery and at trial. Dr. Greenberg, Facebook’s validity expert who would presumably be the authority to render an opinion regarding indefiniteness, was able to prepare an invalidity expert report applying several pieces of prior art to the claims. *See* Ex. C, Greenberg Report at ¶¶ 25-28; *see also* Ex. G, Tr. 1404:22-1406:14. Throughout expert discovery and at trial, Dr. Greenberg never offered an

opinion that the claims were indefinite. In addition, Facebook's infringement expert, Dr. Kearns, similarly analyzed the claims of the '761 Patent. *See* Ex. D, Kearns Report at ¶¶ 11-21; *see also* Ex. G, Tr. 991:3-8. He also did not have a problem understanding the claims during expert discovery or at trial and did not offer an opinion that the claims were indefinite.

Similarly, Leader's experts did not have a problem understanding the scope of the claims. Leader's infringement expert, Dr. Vigna, provided a detailed analysis of the asserted claims in his expert report, and under cross-examination in deposition and at trial. *See* Ex. E, Vigna Report ¶¶ 21-23; *see also* Ex. G, Tr. 541:3-542:12; Tr. 720:7-23; Tr. 741:8-742:6. Likewise, Leader's validity expert, Dr. Herbsleb, was able to analyze and opine on the novelty of the technology of the '761 Patent during expert discovery and at trial. *See* Ex. F, Herbsleb Report ¶¶ 16-20; *see also* Ex. G, Tr. 1752:2-1753:12; Tr. 1776:16-1778:2; Tr. 1778:11-1779:15. Consistent with the evidence adduced during discovery and at trial, Dr. Herbsleb's declaration submitted herewith evidences that a person of ordinary skill in the art would be able to understand the scope and bounds of the claims of the '761 Patent. *See* Herbsleb Decl. at ¶ 3. Accordingly, all experts in this case provided opinions regarding the scope of the claims, and none opined that the claims were indefinite.

Even the Examiner understood the scope of the claims and explicitly recognized their functional nature. As discussed above, the '761 Patent was put into a condition of allowance following an Examiner's amendment. In that amendment, for Claim 1, the Examiner changed the term "automatically" to "dynamically" and identified the triggering function for the dynamic event as "wherein the user accesses data from the second context." Ex. B. Thus, the examiner understood the scope of the claims and their functional nature when she amended the claims. Because the claims are readily understood by those skilled in the art, they are not indefinite and Facebook's motion should be denied.

C. The Narrow Holding in *IPXL* Does Not Apply to the Claims of the '761 Patent

Contrary to Facebook's assertions, *IPXL* does not apply to this case because the claims do not require "both a system and the method of using that system." *IPXL*, 430 F.3d at 1383. The

claim in question in *IPXL* was a clear example of a claim that required a system and a method of using that same system. The Court in *IPXL* explicitly stated:

The system of claim 2 [including an *input means*] wherein the predicted transaction information comprises both a transaction type and transaction parameters associated with that transaction type, and the user uses the *input means* to either change the predicted transaction information or accept the displayed transaction type and transaction parameters.

Id., 430 F.3d at 1384 (emphasis added).

As shown above, the claim at issue in *IPXL* explicitly required the user to use the *input means* which was described in Claim 1 as a mechanism for providing input to the processor. Thus, the claim at issue included a system, *i.e.*, “an *input means*,” and a method of using that system, *i.e.*, “the user uses the *input means*.”

Claims 1, 21 and 23 are completely different from the claims of *IPXL*. For example, Claims 1 and 23 do not describe a system and a method of using that system. Rather, Claims 1 and 23 contain functional language that describe the type of tracking components that are present in the respective systems. In order for *IPXL* to apply to Claim 1 or Claim 23, they would have to be rewritten to “the user uses the network-based system” or “the user uses the computer-implemented system.” Instead, as written, these claims provide functional language that describe two particular types of tracking components, one that dynamically updates metadata when a user accesses data from a second context and the other which dynamically stores change information when a user accesses data from a second user workspace. They do not require the user to use the system at all. Rather, the claims only require tracking components that are designed to react in a specified way.

Similarly, Claim 21 is distinct from *IPXL*. Like Claims 1 and 23, the user is not required to use the computer-readable medium for storing computer-executable instructions. Instead, Claim 21 describes a computer program that dynamically associates data when a user employs data from a second workspace. For *IPXL* to apply, Claim 21 would have to be rewritten to the “user uses the computer-readable medium.” This is not the case, and *IPXL* therefore does not apply.

Furthermore, Facebook’s argument is technically unfeasible because it necessarily requires a

user to use back-end components of a network-based system. Claims 1 and 23 are directed toward back-end components of a network-based system. It is not possible for a user to “use” these components as Facebook claims because they are not accessible to the user. Rather, these components are maintained on the servers of the network-based system and perform functions in response to user action. For instance, a user cannot use the context or tracking components to do anything. However, if the user uploads a picture, or moves from one context to another and accesses that picture, the components will perform the functions that they are designed to do. *See* Ex. G, Tr. 299:22-301:5; 301:20-303:5; 303:6-17; 303:19-304:3; 304:4-18. While this distinction may seem slight, it is important because the narrow holding in *IPXL* is limited to a user using components of a system. Such use however, is impossible with the ‘761 Patent because the user cannot “use,” and does not even have access to, the claimed components. *See* Ex. G, Tr. 304:19-305:1; *see also IPXL*, 430 F.3d at 1384.

1. *IPXL*’s Narrow Holding Does Not Apply to Claims with Functional Limitations

Accused infringers in several other recent cases have attempted to convince courts to find claims invalid under *IPXL*. In almost all cases that cite *IPXL* for the proposition that mixed method and apparatus claims are indefinite, the courts found that the narrow holding of *IPXL* did not apply. The majority of district courts have held that the suspect claims did not cover both an apparatus and a method but rather were apparatus claims containing functional limitations.⁵

For example, the district court in *Yodlee, Inc. v. CashEdge, Inc.* denied summary judgment because the disputed claims simply used active language to describe the *capability* of the

⁵The only two cases that actually followed *IPXL* are distinguishable from the present case. In, *Rembrandt Data Techs., LP, v. AOL, LLC*, the plaintiff *conceded* that the claim language was an apparatus/method claim. 673 F.Supp.2d 420, 426-28 (E.D. Va. 2009). Leader does not concede that the ‘761 Patent contains mixed method/apparatus claims but rather contains functional language to describe particular types of components. The second case, *Ariba, Inc. v. Emptoris, Inc.*, involved a patent claim where the user was clearly required to use the claimed device. No. 9:07-CV-90, 2008 WL 3482521, at * 7-8 (E.D. Tex. Aug. 7, 2008). The disputed claim was an apparatus claim directed to “a bidding device.” However, the limitations of the claim required “a potential seller operating the bidding device.” *Id.* at *6-7. Unlike *Ariba*, the claims of the ‘761 Patent do not contain any language requiring “a user operating the network-based system.”

apparatuses and did not claim the activity itself. No. C 05-01550 SI, 2006 WL 3456610, at *4 (N.D. Cal. Nov. 29, 2006). The disputed claim language in relevant part recites:

A computer-readable storage device storing instructions that upon execution cause a processor to automatically access personal information associated with an end user, wherein the personal information is stored on a personal information provider by performing the steps comprising of: . . .

(b) upon activation of the presented link, downloading an application to the client computer, wherein the downloaded application upon execution on the client computer performs the steps of . . .

Id. The infringers argued that the claim language “activation of the presented link” did not provide whether infringement “occurs when the computer-readable storage device is manufactured or sold, *or* whether infringement occurs when a user activates such a system's presented link, *or both.*” *Id.* (emphasis in original). The *Yodlee* court rejected that argument, stating that infringement occurs if a device presents such a link, and activating such link would initiate the process described under paragraph (b). *Id.* (“[W]hether a user “actually activates the link presented by the infringing device is of absolutely no import.”).

Facebook makes the same argument here. It alleges that is unclear whether Claims 1, 21, and 23 are infringed by the making, using or selling of the claimed system or computer readable medium or when an end-user accesses the data. However, Facebook’s argument fails for the same reason as found in *Yodlee* because infringement occurs if a system is built with a context component and tracking component that is capable of performing the recited functions. Like *Yodlee*, whether the functions are actually executed is of no importance in determining infringement as long as the system contains the claimed components. *See id.* at *4.

Because so many parties have attempted, albeit unsuccessfully, to find claims indefinite under *IPXL*, the *Yodlee* court provided a simple but useful analogy to determine if a claim is a “mixed-method claim”:

[A] claim which physically describes a pair of scissors designed to cut paper, then states, ‘upon opening and closing the sharp edges of the scissors on a piece of paper, the paper is cut.’ The language describes the capability of the scissors; it is functional language.

Infringement occurs upon the manufacturing and sale of scissors that are capable of cutting paper. The IPXL rule would apply only if the patent claimed the physical description of the scissors, then stated within the same claim: “and the method of using said scissors to cut a piece of paper.

Id. at *5.

The example in *Yodlee* is particularly informative because like *Yodlee*, the claims of the ‘761 Patent describe “the capability of the [tracking component],” *i.e.*, the ability to dynamically update metadata when a user accesses data from a second context. The claims do not require “the method of using said [tracking component].” Thus, infringement occurs upon manufacturing and selling a system with a context component and a tracking component that are capable of performing the same functions as recited in the claims.

In *Collaboration Props., Inc. v. Tandberg ASA*, the court declined to apply *IPXL* because the language at issue was purely functional language. No. C 05-01940MHP, 2006 WL 1752140, at *6-7 (N.D. Cal. June 23, 2006). The claim at issue, in relevant part stated:

A teleconferencing system for conducting a teleconference . . . ; wherein, the system is configured to reproduce images, based on data signals shared along the data path, on at least two first monitors so as to permit participants associated with the workstations having the two first monitors to interactively share the reproduced images and reproduce participant video images, based on AV signals carried along the second path, on at least two second monitors.

Id. at *6.

The court in *Collaboration Props.* concluded that the “configured to” claim language indicated functionality, such as might be implemented in hardware or software, but did not render claims invalid even though the limitation explicitly referred to the claimed system. *Id.* Under *Collaboration Props.*, the claims of the ‘761 Patent are clearly functional and do not cover both an apparatus and a method because the claims never refer to the “system” or “computer-readable medium,” and certainly do not require use of a “system” or “computer-readable medium.” Instead, the ‘761 Patent merely describes the types of components an infringer would have to build in order to infringe.

Similarly, in *August Tech. Corp. v. Camtek, Ltd.*, the district court denied summary judgment because the disputed claim language described functionality and not a specific method of using that system or requiring use. No. 05-1396, 2008 WL 2774696, at *4-5 (D. Minn. July 14, 2008). The claim in relevant part described an automated system comprising “a visual inspection device for visual inputting of a plurality of known good quality wafers during training and for visual inspection of other unknown quality wafers during inspection.” *Id.* at *1. The court found that the phrase, “visual inputting of a plurality of known good quality wafers” describes the functionality of the “visual inspection device,” and not a specific method of using that system or requiring use. *Id.* at *4. Like in *August Tech.*, the claims of the ‘761 Patent describe the functionality of the various tracking component and do not describe any method of using the tracking components.

Below are just a few additional cases that have found claims containing functional language are not indefinite under *IPXL*:

- *Microprocessor Enhancement Corp. v. Texas Instruments Inc.*, 520 F.3d 1367, 1374-75 (Fed. Cir. 2008) (direct infringement clearly limited to a processor possessing the recited structure and capable of performing the recited functions, and thus not indefinite)
- *Ricoh Co.*, 486 F.Supp.2d at 402-03 (claim covering photocopier toner bottle, which was limited by language in preamble that read, “to selectively plug or unplug a discharge mouth of a developer container mounted to an image forming apparatus,” did not describe active use, but described claimed apparatus in functional terms and not an impermissible method-apparatus claim)
- *Research Corp. Tech. Inc., v. Microsoft Corp.*, No. CV-01-658-TUG-RCJ, 2009 WL 1676125, at *12-13 (D. Ariz. June 5, 2009) (claim limited to a comparator possessing the recited ability and structures capable of performing the recited function was not indefinite)
- *Lamoureux v. AnazaoHealth Corp.*, 669 F. Supp. 2d 227, 262-63 (D. Conn. 2009) (claim language including “the assembly as claimed in Claim 9” and “wherein the needle assembly is pre-loaded with said line of elements and is sterile” did not cover both an apparatus and method, but rather an apparatus claim containing functional limitations)
- *Freedom Wireless, Inc. v. Alltel Corp.*, No. 06-cv-504-TJW, 2008 WL 4647270, at *13-14 (E.D. Tex. Oct. 17, 2008) (“The undersigned construes this claim to be an apparatus claim that describes the apparatus by reference to its functional capabilities. . . As such it does not run afoul of *IPXL Holdings*.”)
- *Metso Paper, Inc. v Enerquin Air Inc.*, No. 06-Cv-1170, 2008 WL 5068712, at *75 (E.D. Wis. July 23, 2008) (Claim 1 can only be read as describing an apparatus which had a particular functional capability)

- *Datamize, LLC v. Plumtree Software, Inc.*, No. C04-2777-VRW, 2007 WL 5720627, at *12 (N.D. Cal. Aug. 7, 2007) (claim language described a tangible item defined by certain steps, essential to the claimed invention and thus valid apparatus claims)
- *Toshiba Corp. v. Juniper Networks, Inc.*, No. 03-1035-SLR, 2006 WL 1788479, at *2-5 (D. Del. June 28, 2006) (claim relating to data networks which focused on an apparatus that incorporated limitations that were directed to the function of the claimed device, and not the method of using the claimed device, was not invalid)
- *Collegenet, Inc. v. XAP Corp.*, 442 F. Supp. 2d 1036, 1062-63 (D. Or. 2006) (method claims for processing customized forms and payment information from a user were not invalid for indefiniteness, despite accused infringer's contentions that asserted claims included descriptions of apparatus and functional limitations associated with the apparatus)
- *Sienna, LLC v. CVS Corp.*, 06-cv-3364-DLC, 2007 WL 13102, at *7-8 (S.D.N.Y. Jan. 3, 2007) (disputed claim language "notwithstanding the use of excessive manual force to attempt to overcome such interference" was not a separate method step, but rather descriptive of the apparatus and not indefinite)
- *Spine Solutions, Inc. v. Medtronic Sofamor Danek, Inc.*, No. 07-2175-JPM-DRV, 2008 WL 4831770, at * 8 (W.D. Tenn. July 2, 2008) (terms at issue "used active language to describe the capability of the apparatuses; they do not claim the activity itself.")
- *Synqor, Inc. v. Artesyn Tech., Inc.*, 07-cv-497-TJW-CE, 2010 WL 2991037, at *30 (E.D. Tex. July 26, 2010) (claim language "is not driven into saturation," did not describe a method step and instead is used to describe the structure and capabilities of the claimed apparatus)
- *Petter Investments, Inc. v. Hydro Eng'g, Inc.*, 07-cv-1033, 2009 WL 2922303, at *2 (W.D. Mich. Sept. 8, 2009) (claims were not indefinite for simultaneously claiming an apparatus and a method because the patent claimed "ridges" and explained that a characteristic of the "ridges" is that they are capable of "structurally supporting the weight of the vehicle")
- *Alan Lee Distributors, Inc. v. Brown*, CV-05-646-AHM, 2006 WL 6130341, at *6-7 (C.D. Cal. April 14, 2006) (claim language "and promoting" modified the term "meat product" did not render the claims invalid)
- *Netscape Comm'ns Corp. v. ValueClick, Inc.*, 684 F.Supp.2d 699, 722 (E.D. Va. 2010) (claims not indefinite because they did not require the user to execute the claimed method; rather, the claimed computer systems simply described as capable of performing the method, not as actually performing the method).

Accordingly, there is no need to deviate from the majority of district courts that declined to find patent claims indefinite under *IPXL*. The claim language of the '761 Patent, like the claims in those cases, relate to the functionality of the claimed apparatus and computer-readable medium.

2. *IPXL* Does Not Apply Because Infringers are Reasonably Apprised of the Scope of the Claims of the '761 Patent

In passing, Facebook argues that potential competitors would not know what would constitute infringement of Claims 1, 21 and 23. The answer is simple, anyone who makes a system

with a context component and tracking component capable of performing the functions recited in the claims infringes Claims 1, 21 and 23. As determined by the jury, one such infringer is Facebook. Facebook makes a system that contains a context component that captures context information and stores the context information in metadata and a tracking component that tracks users and dynamically updates the metadata when a user accesses data from a second context. The users do not have to use the system at all in order to infringe. Rather, Facebook infringes because as the jury found, it manufactures a system and contains computer code that is capable of performing the functions recited in the Claims 1, 21 and 23. Because the scope of the claims is clear, the claims are not invalid for indefiniteness and Facebook's motion should be denied.

D. Facebook Waived Its Indefinite Arguments Because It Offered Constructions for the Disputed Terms

Not only do Facebook's arguments fail on the merits, but they are also waived because Facebook understood the claims as it offered claim constructions for the terms that Facebook takes issue with. It is well settled that terms that can be construed are not indefinite. *See, e.g., Microprocessor Enhancement*, 520 F.3d at 1376 ("a claim that is amenable to construction is not invalid on the ground of indefiniteness.") (quotation omitted). Thus, Facebook waived its right to argue indefiniteness. *See id.*

Facebook originally presented over 40 terms for construction. (D.I. 191). During the claim construction process, these terms included "accesses the data" and "employs the application and data." *Id.* at 22-24. At trial, Facebook additionally asked the Court to construe the term "wherein." (D.I. 596); *see also* Ex. G, Tr. 1613:24-1614:12. As a result, Facebook offered a construction for every key term of the phrases that it now says are indefinite, as shown below:

Claim 1 - "wherein the user accesses the data from the second context"

Claim 21 - "the user employs the application and data from the second user workspace"

Claim 23 - "wherein the user accesses the data from the second user workspace."

Because Facebook offered a construction for the terms that are in dispute, it cannot now argue the terms are insolubly ambiguous and incapable of being understood by one of skill in the art. *See,*

e.g., Microprocessor Enhancement, 520 F.3d at 1376. Accordingly, Facebook's motion should be denied because it has waived its right to argue the phrases at issue are indefinite. *Id.*

E. Facebook's Motion Should Be Denied Because All of the Factual Issues Presented in this Case Preclude Granting Summary Judgment

As the moving party, Facebook must establish that no material facts are in dispute. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Facebook's motion for summary judgment is improper because it failed to present *any* evidence or undisputed facts in support of its motion. Instead, its Motion is based entirely on one page of attorney argument that remarkably is repetitive. The only undisputed facts presented to the Court are those raised in this opposition. Namely, Facebook did not raise this issue with its validity expert, Dr. Greenberg. In fact, no expert offered an opinion that the claims of the '761 Patent are indefinite. Quite the contrary, all of the experts and the jury understood the scope of the claims. Moreover, the Court issued a number of rulings regarding the scope of the claims, including claim construction and a JMOL regarding indirect infringement finding that there was not sufficient evidence that third parties practiced each of the elements of the claims. Thus, Facebook's assertion that the '761 Patent is not understandable is against the clear weight of the evidence, and totally without factual or evidentiary support.

F. Dependent Claims 4, 7, 25, 31 and 32 Are Not Indefinite

Facebook does not address the definiteness of Claims 4, 7, 25, 31 and 32 in its motion except to state that they are indefinite for the same reasons that Claims 1, 21 and 23 are indefinite. As described above Claims 1, 21, and 23 are not indefinite and are valid. Accordingly, for the same reasons, and because Facebook has not challenged Claims 4, 7, 25, 31 and 32 apart from the arguments regarding the independent claims, these claims are also definite. Therefore, summary judgment is unwarranted for the same reasons discussed above.

V. CONCLUSION

For the reasons noted above, Facebook's motion for summary judgment of invalidity should be denied.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on September 20, 2010, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC.,)	
a Delaware corporation,)	
)	
Plaintiff-Counterdefendant,	)	Civil Action No. 08-862-LPS
)	
v.)	
)	
FACEBOOK, INC.,)	
a Delaware corporation,)	
)	
Defendant-Counterclaimant.)	

DECLARATION OF YURIDIA CAIRE IN SUPPORT OF PLAINTIFF LEADER TECHNOLOGIES, INC.'S OPPOSITION TO DEFENDANT FACEBOOK, INC.'S MOTION FOR SUMMARY JUDGMENT OF INVALIDITY OF CLAIMS 1, 4, 7, 21, 23, 25, 31 AND 32 OF U.S. PATENT NO. 7,139,761

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I, Yuridia Caire, hereby declare as follows:

1. I am an attorney with the law firm King & Spalding LLP, counsel for Plaintiff Leader Technologies, Inc. I have personal knowledge of the facts set forth in this declaration and can testify competently to those facts. I make this declaration in support of Plaintiff Leader Technologies, Inc.'s Opposition to Defendant Facebook, Inc.'s Motion for Summary Judgment of Invalidity of Claims 1, 4, 7, 21, 23, 25, 31, and 32.

2. Attached hereto as Exhibit A is a true and correct copy of U.S. Patent No. 7,139,761 ("761 Patent").

3. Attached hereto as Exhibit B is a true and correct copy of the Notice of Allowability from the prosecution history of the '761 Patent, dated August 15, 2006.

4. Attached hereto as Exhibit C is a true and correct copy of pages 14-16 from the Expert Report of Saul Greenberg, served on April 8, 2010.


5. Attached hereto as Exhibit D is a true and correct copy of pages 5-15 from the Expert Report of Michael Kearns, served on April 22, 2010.

6. Attached hereto as Exhibit E is a true and correct copy of pages 6-7 from the Expert Report of Giovanni Vigna, served on April 8, 2010.

7. Attached hereto as Exhibit F is a true and correct copy of pages 4-5 from the Expert Report of James Herbsleb, served on April 8, 2010.

8. Attached hereto as Exhibit G is a true and correct copy of pages 299-305, 541-42, 720, 741-42, 991, 1404-06, 1579-81, 1613-14, 1752-53, 1776-79 from the Transcripts of Trial Proceedings.

I declare under penalty of perjury under the laws of the State of California and the United States that each of the above statements is true and correct. Executed on September 20, 2010 in Redwood Shores, California.



Yuridia Caire

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on September 20, 2010, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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EXHIBIT A



US007139761B2

(12) **United States Patent**
McKibben et al.

(10) **Patent No.:** US 7,139,761 B2
(45) **Date of Patent:** Nov. 21, 2006

- (54) **DYNAMIC ASSOCIATION OF ELECTRONICALLY STORED INFORMATION WITH ITERATIVE WORKFLOW CHANGES**
- (75) Inventors: **Michael T. McKibben**, Columbus, OH (US); **Jeffrey R. Lamb**, Westerville, OH (US)
- (73) Assignee: **Leader Technologies, Inc.**, Westerville, OH (US)

6,236,971	B1	5/2001	Stefik et al.	
6,311,228	B1	10/2001	Ray	
6,418,461	B1	7/2002	Barnhouse et al.	
6,421,678	B1 *	7/2002	Smiga et al.	707/102
6,539,371	B1	3/2003	Bleizeffer et al.	
2002/0001301	A1	1/2002	Sarkissian et al.	
2002/0078150	A1 *	6/2002	Thompson et al.	709/204
2002/0143877	A1 *	10/2002	Hackbarth et al.	709/205
2003/0069849	A1	4/2003	Stefik et al.	
2003/0217096	A1 *	11/2003	McKelvie et al.	709/202

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

OTHER PUBLICATIONS

International Written Opinion, PCT/US03/39421, mailed Nov. 15, 2004.

Diane Mizrahi, Patent Cooperation Treaty International Search Report; Jun. 27, 2004; Alexandria, Virginia.

* cited by examiner

Primary Examiner—Diane Mizrahi

(21) Appl. No.: **10/732,744**

(22) Filed: **Dec. 10, 2003**

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(51) **Int. Cl.**
G06F 17/30 (2006.01)

(52) **U.S. Cl.** 707/10

(58) **Field of Classification Search** 707/1-10, 707/100-104.1; 379/202.01; 715/753; 725/87, 725/112; 709/202, 204, 205
See application file for complete search history.

(56) **References Cited**

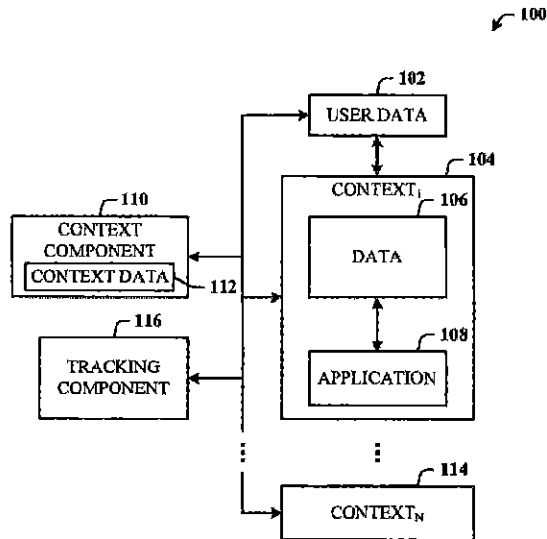
U.S. PATENT DOCUMENTS

6,154,465 A 11/2000 Pickett

(57) **ABSTRACT**

A data management tool. The tool is a unified, horizontal system for communications, organization, information processing, and data storage. The tool operates seamlessly with existing platforms, and is a common workflow layer that is automated with a scalable, relational database. The tool uses one or both of a relational and object database engine that facilitates at least many-to-many relationships among data elements. The highest contextual assumption is that there exists an entity that consists of one or more users. The data storage model first assumes that files are associated with the user. Thus, data generated by applications is associated with an individual, group of individuals, and topical content and not simply with a folder, as in traditional systems.

35 Claims, 18 Drawing Sheets



Plaintiff's Trial Exhibit
PTX-1
Case No. 08-CV-00862

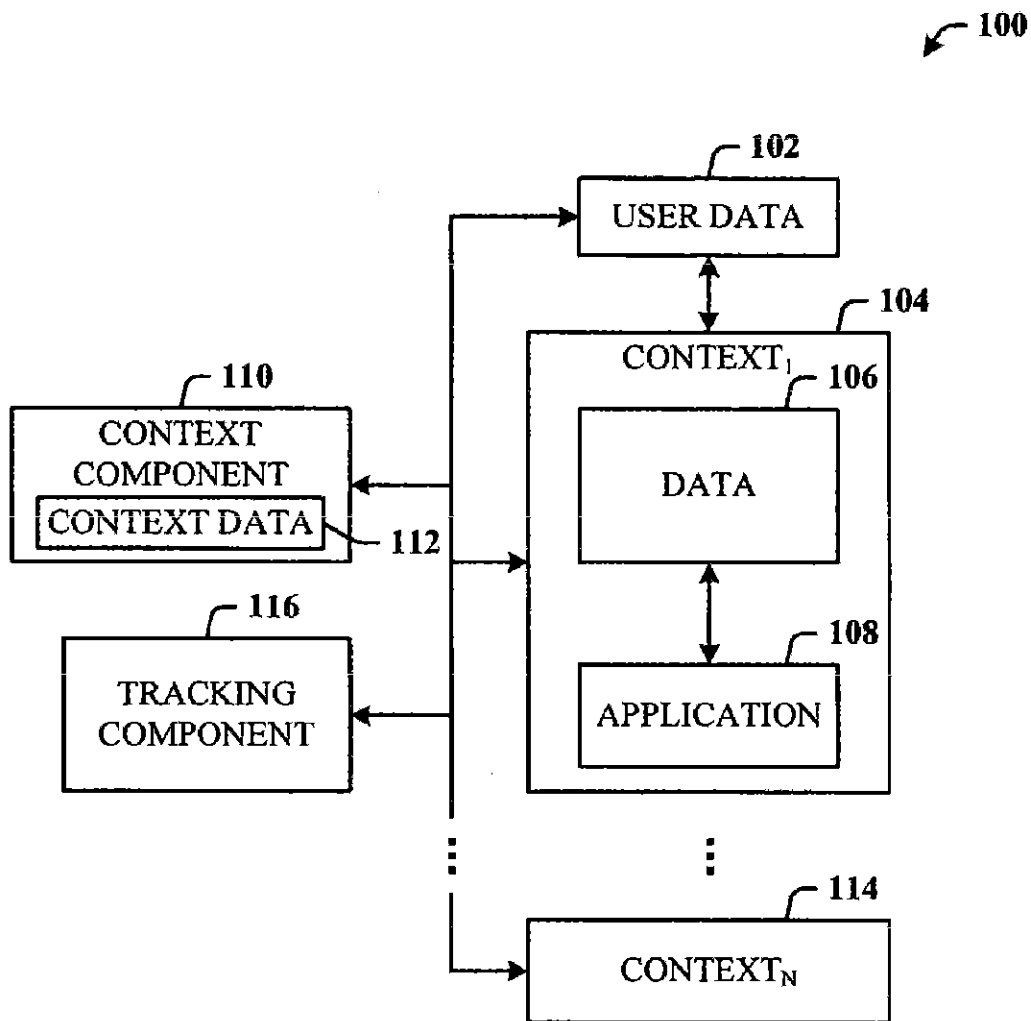


FIG. 1

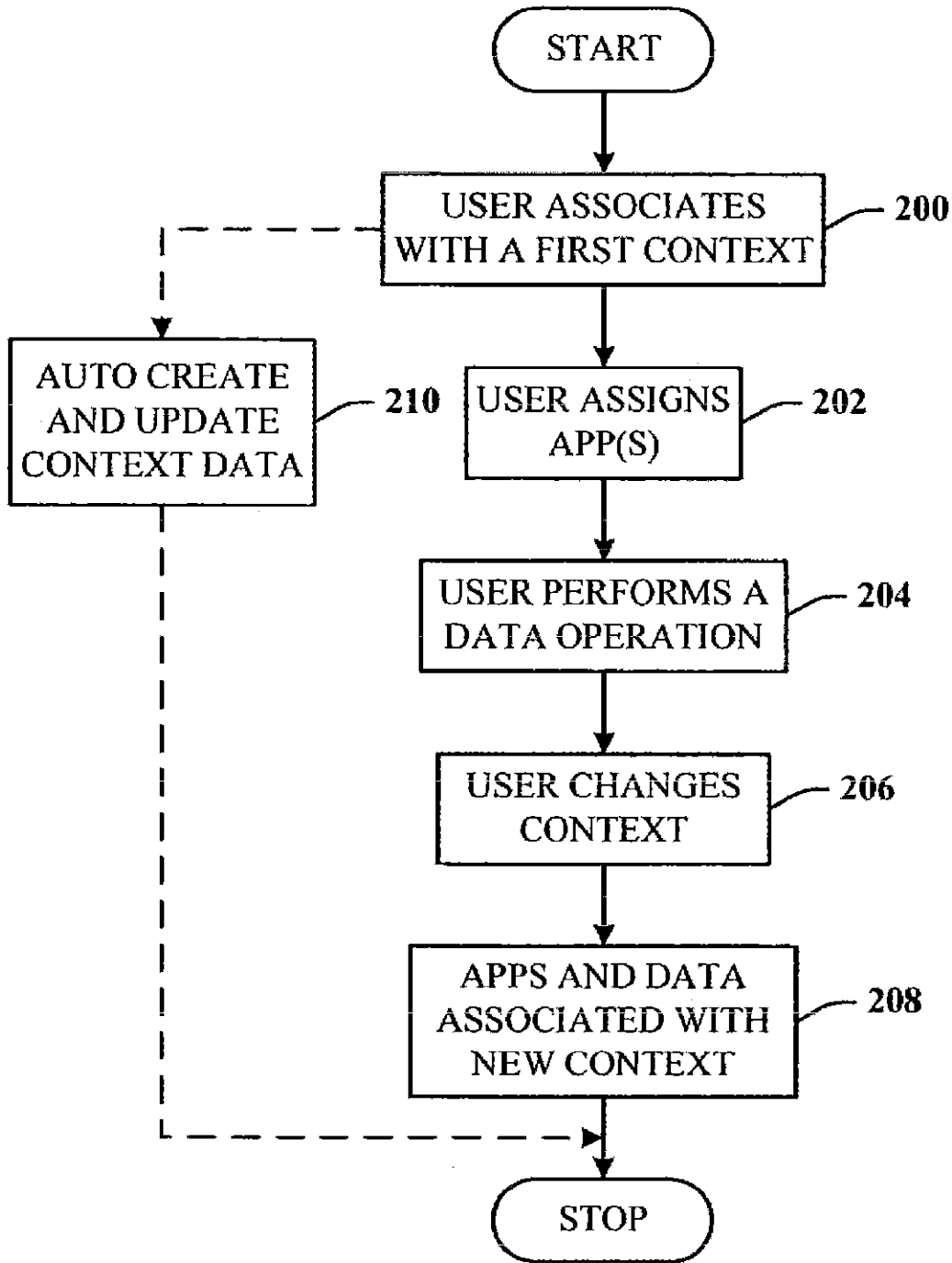


FIG. 2

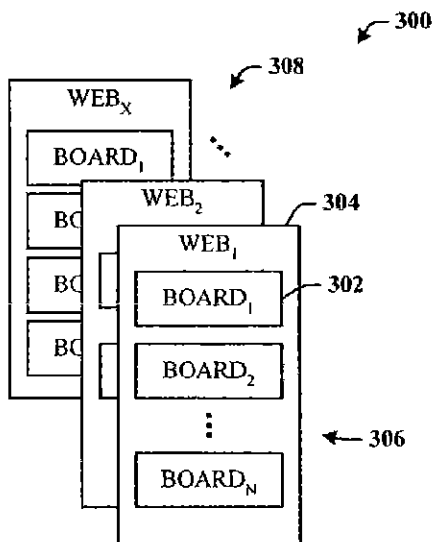


FIG. 3

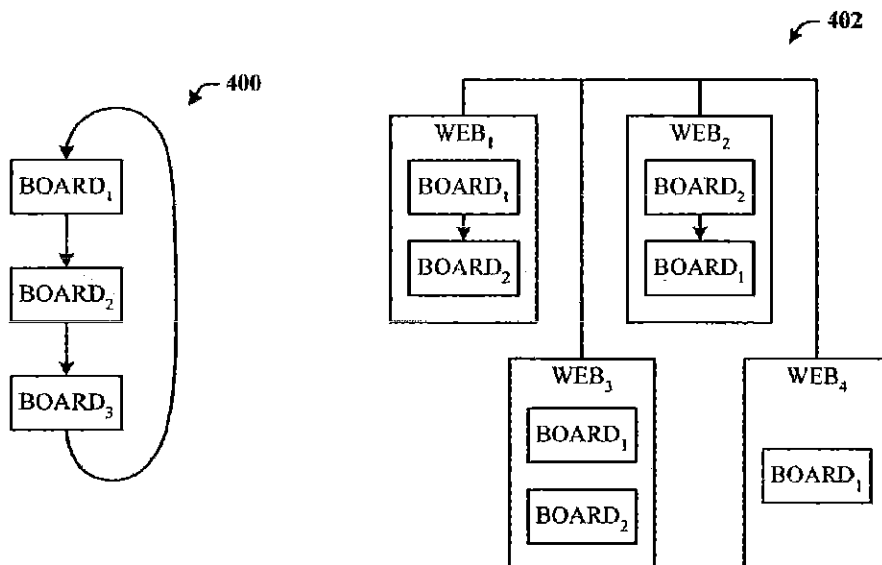


FIG. 4A

FIG. 4B

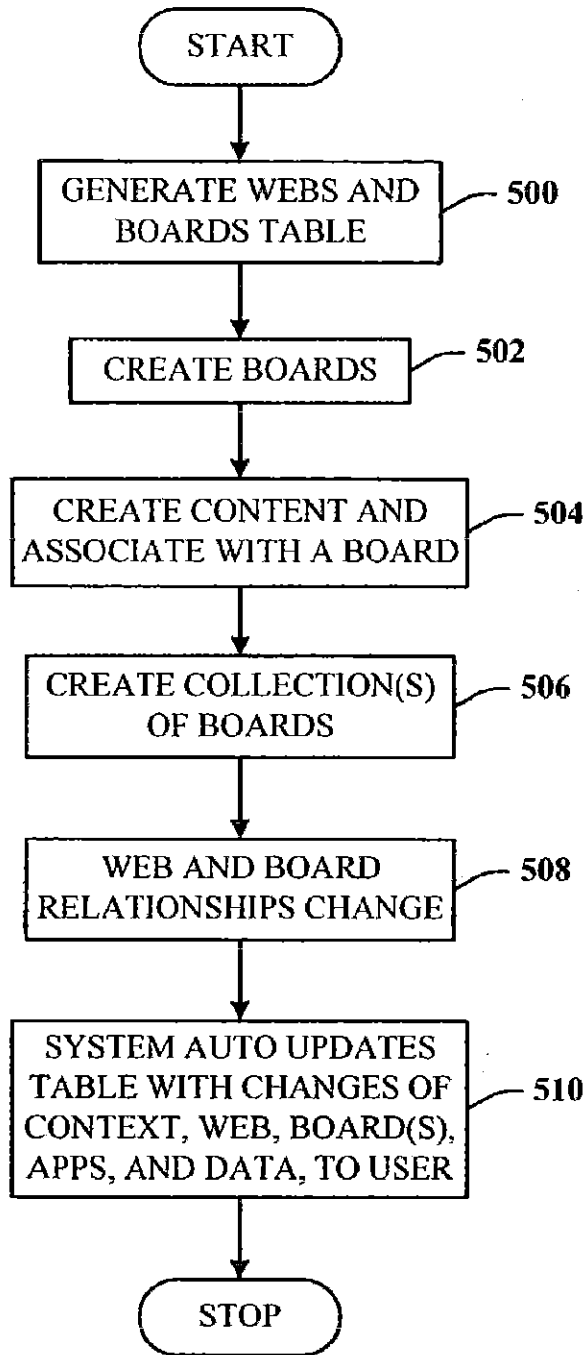


FIG. 5

600

WEBS AND BOARDS TABLE			
USER(S)	WEB(S)	BOARD(S)	BOARD(S) P/C RELATION
1,2,3	W1	B11, B12, B14	B11: B12; B14
6	W2	B23, B25	NA
7,8	W1,W3	B36,B37	B36:B37;B36

FIG. 6

700

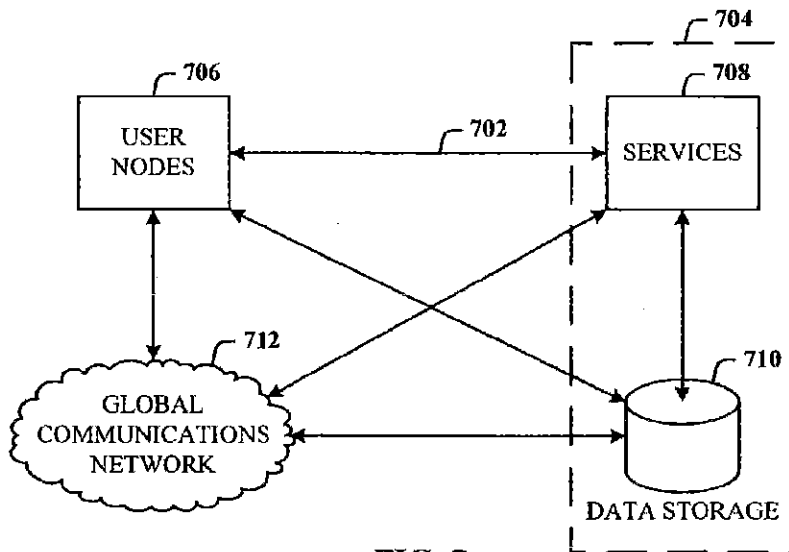


FIG. 7

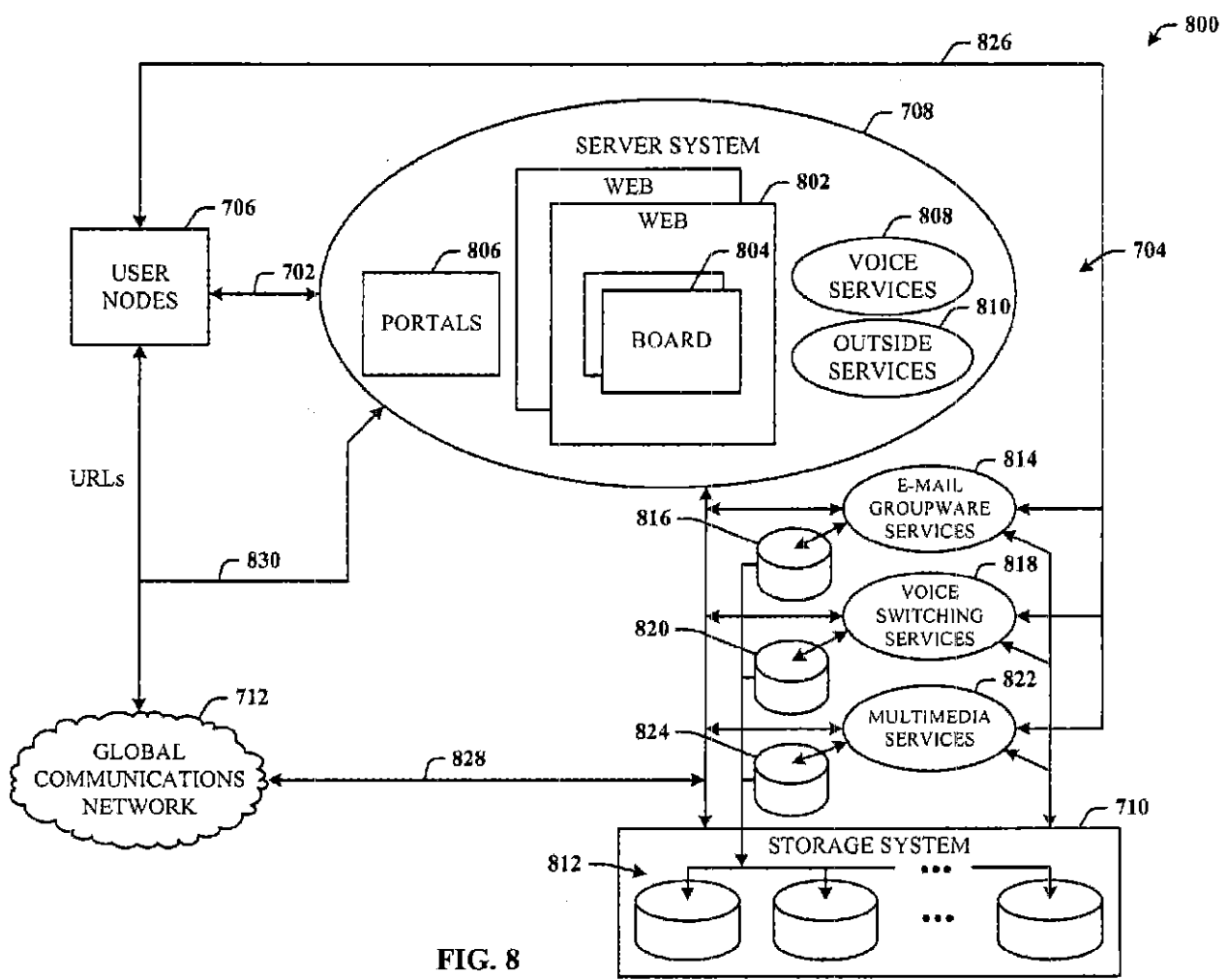


FIG. 8

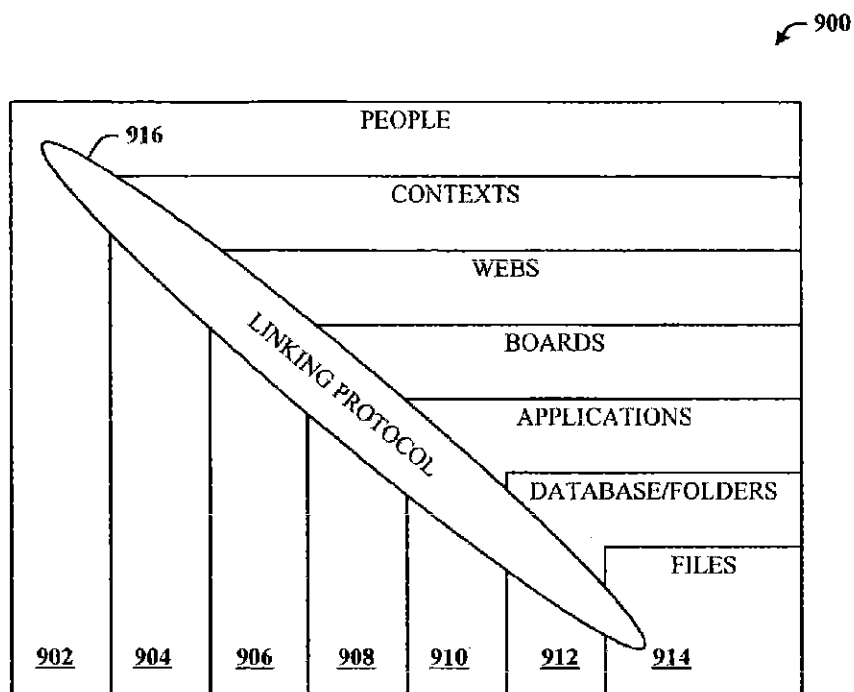


FIG. 9

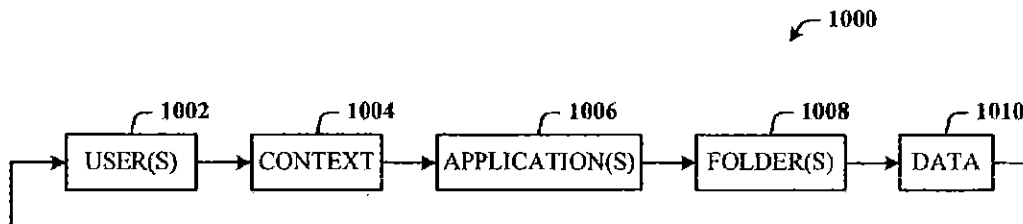


FIG. 10

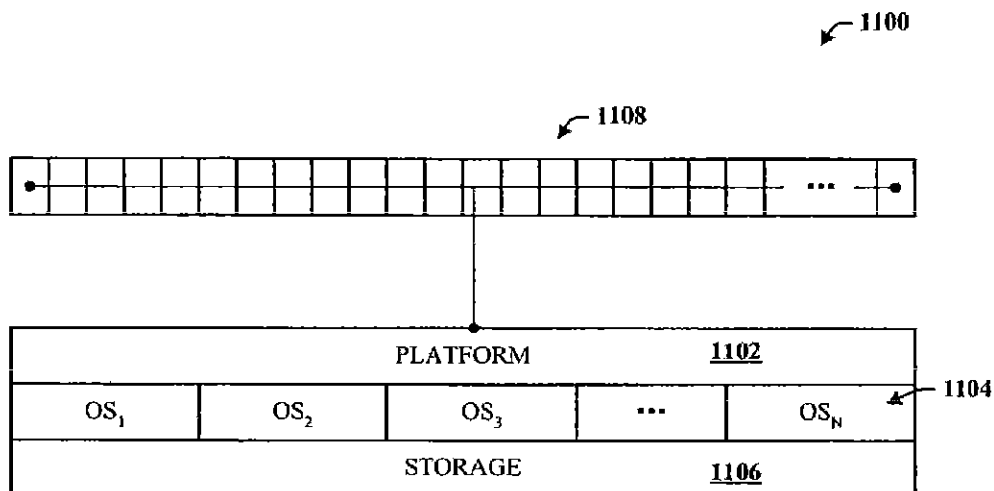


FIG. 11

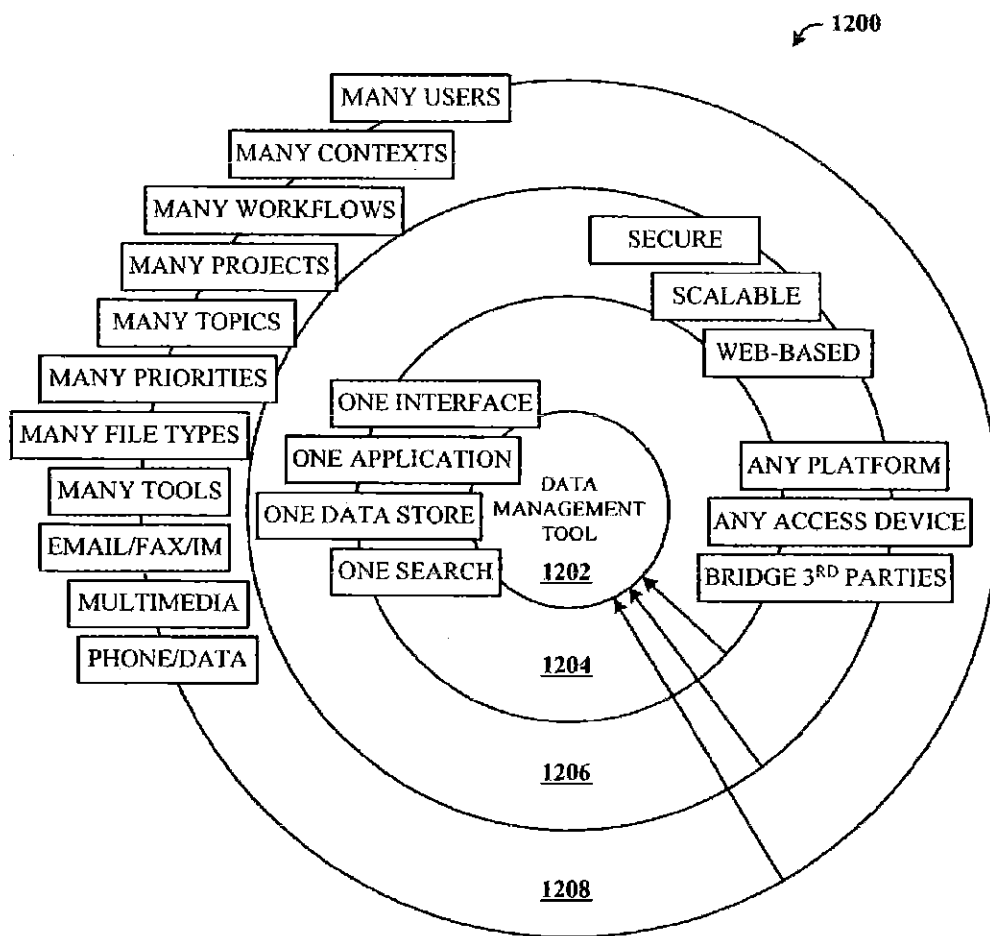


FIG. 12

1300

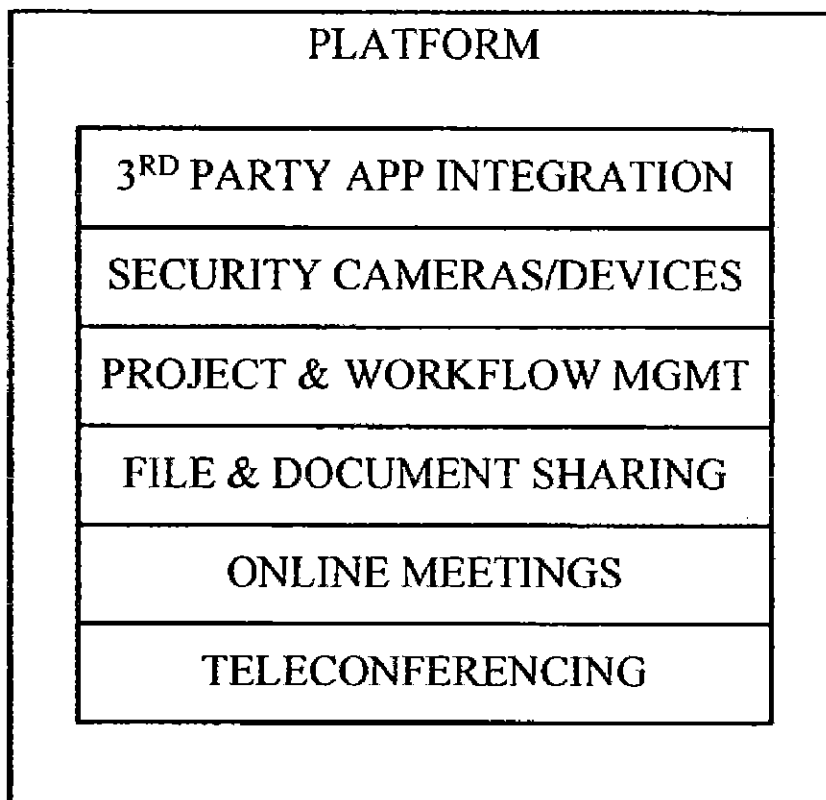


FIG. 13

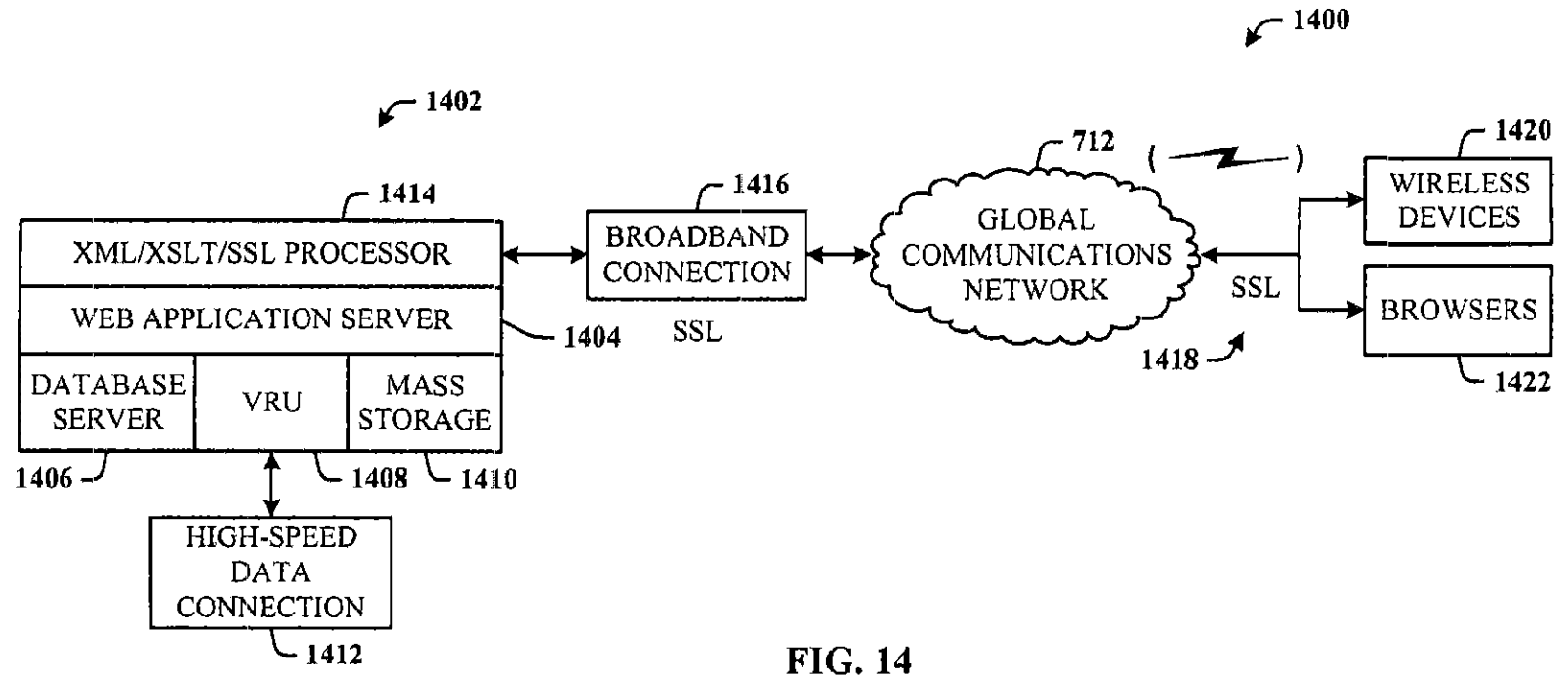


FIG. 14

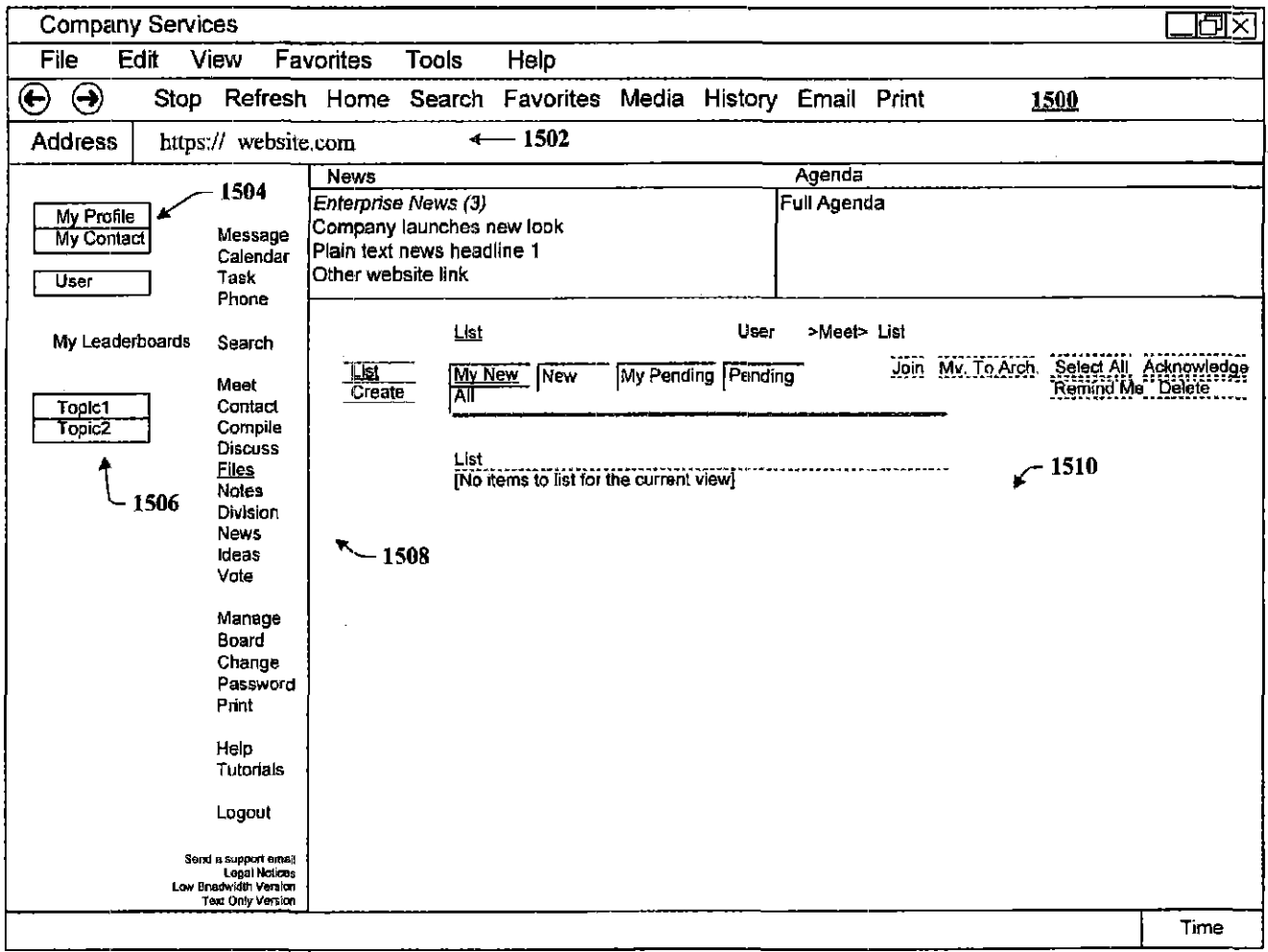


FIG. 15

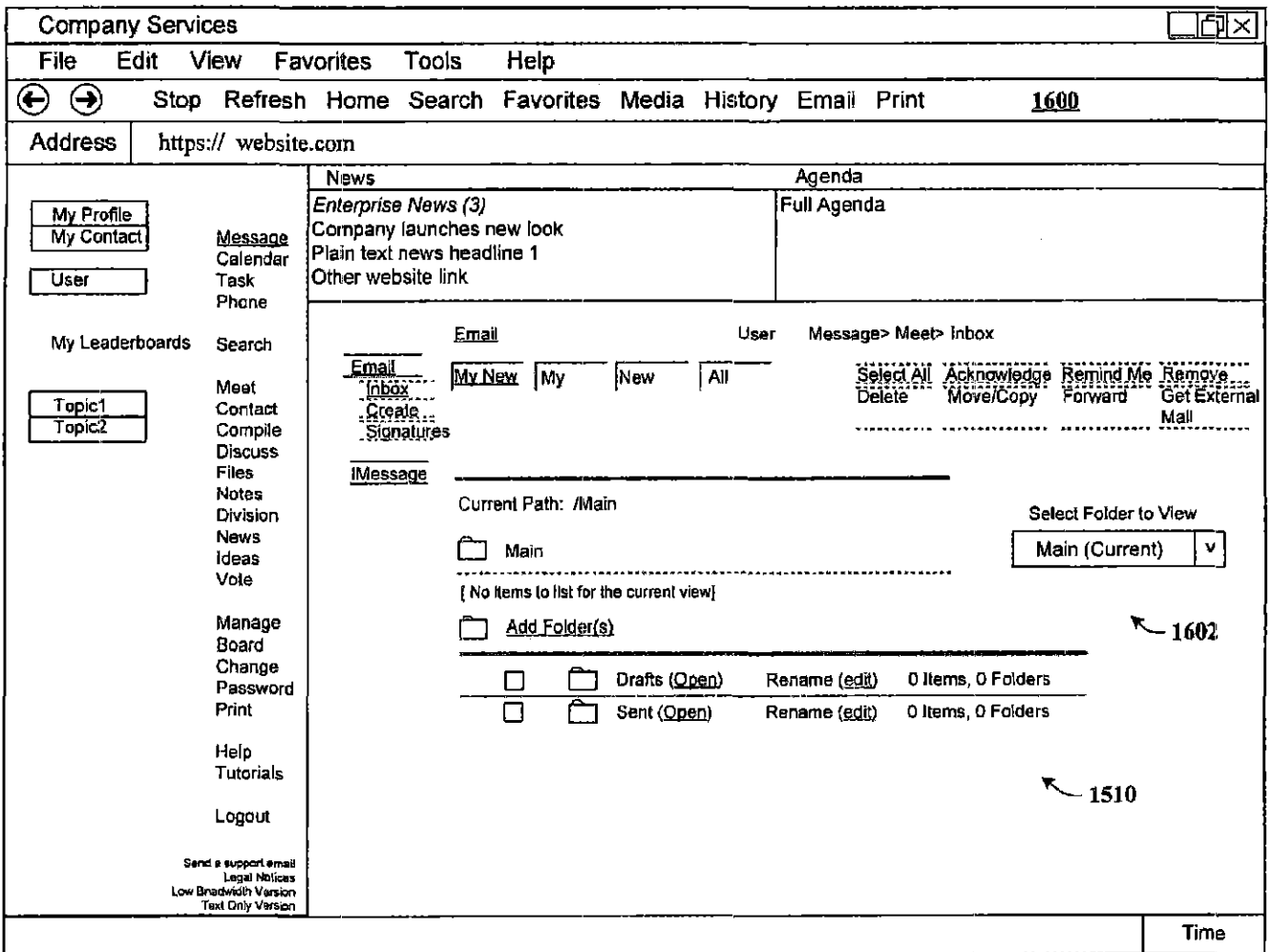


FIG. 16

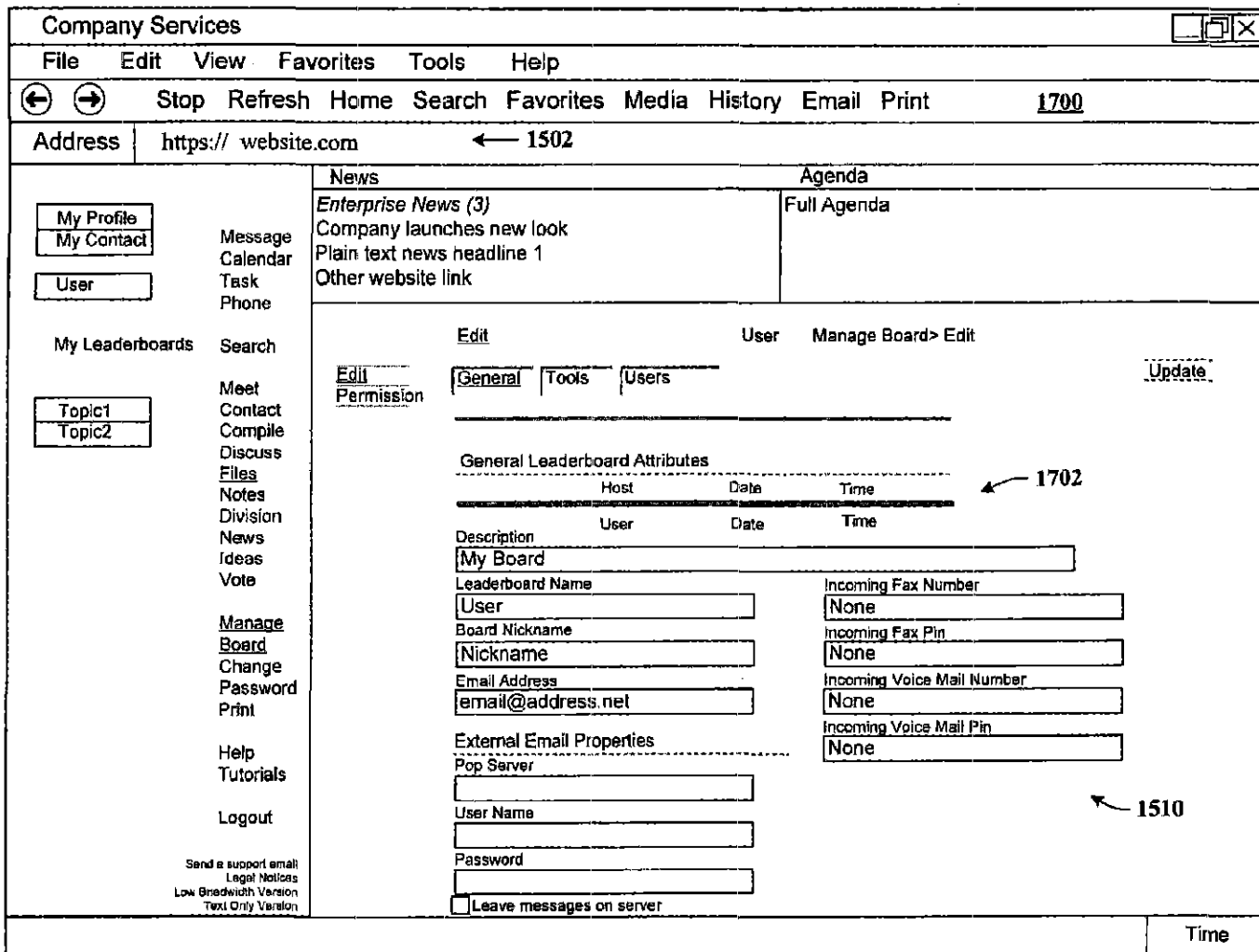


FIG. 17

The screenshot shows a web browser window titled "Company Services". The address bar contains "https:// website.com". The main content area is divided into several sections:

- Navigation Menu (Left):** Includes links for "My Profile", "My Contact", "User", "My Leaderboards", "Topic1", "Topic2", "Message", "Calendar", "Task", "Phone", "Meet", "Contact", "Compile", "Discuss", "Files", "Notes", "Division", "News", "Ideas", "Vote", "Manage", "Board", "Change", "Password", "Print", "Help", "Tutorials", and "Logout".
- News Section:** Titled "Enterprise News (3)", it lists "Company launches new look", "Plain text news headline 1", and "Other website link".
- Agenda Section:** Titled "Full Agenda".
- Main Content Area:** Contains a table with columns "My New", "New", "My Pending", and "Pending". Above the table are links for "List", "User", ">Phone>", and "List". Below the table is a "List" section with the text "[No items to list for the current view]".
- Footer:** Includes "Send a support email", "Legal Notices", "Low Bandwidth Version", "Text Only Version", and a "Time" field.

Annotations: An arrow labeled "1802" points to the "List" link above the table, and an arrow labeled "1510" points to the "List" section below the table.

FIG. 18

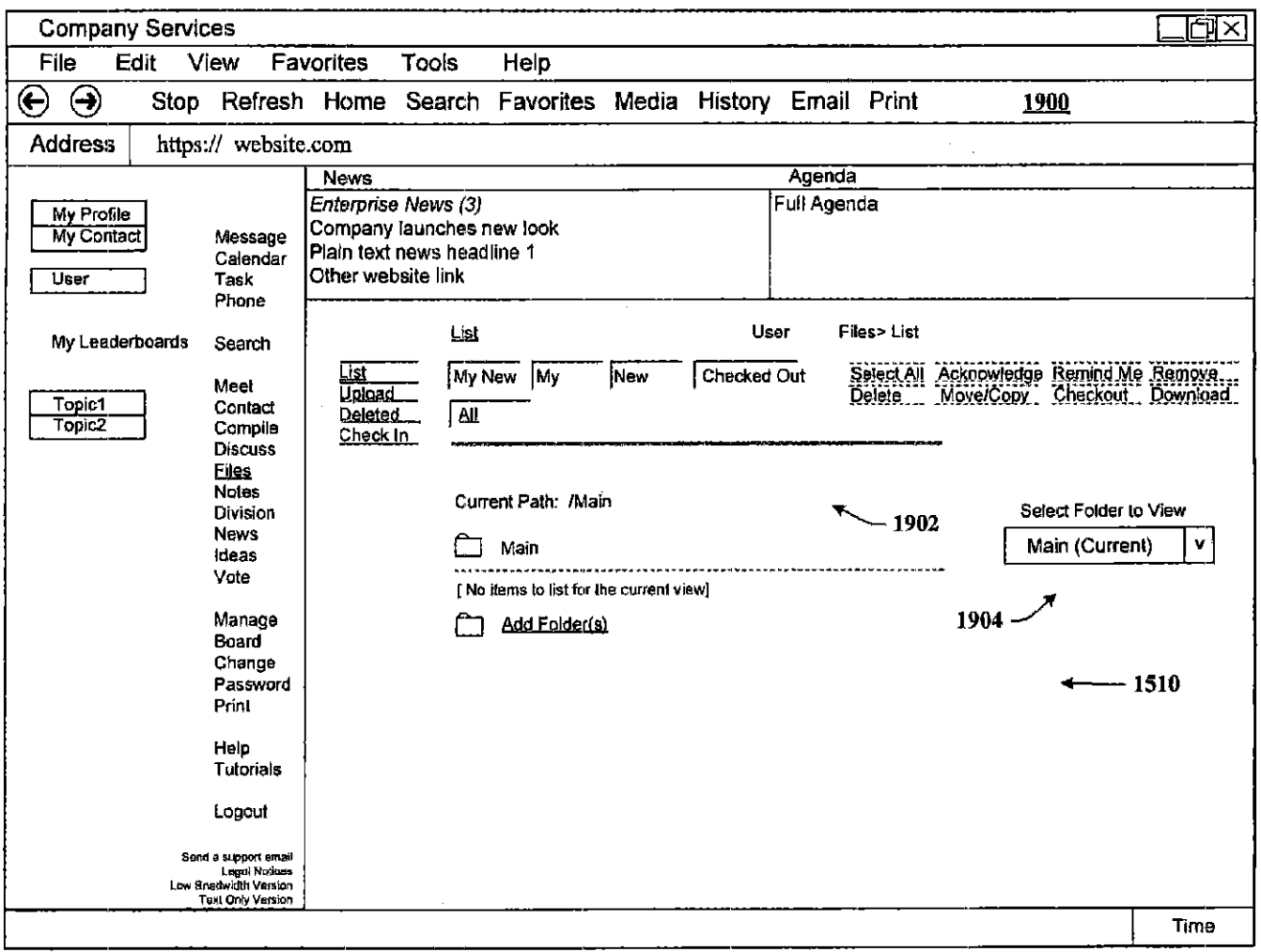


FIG. 19

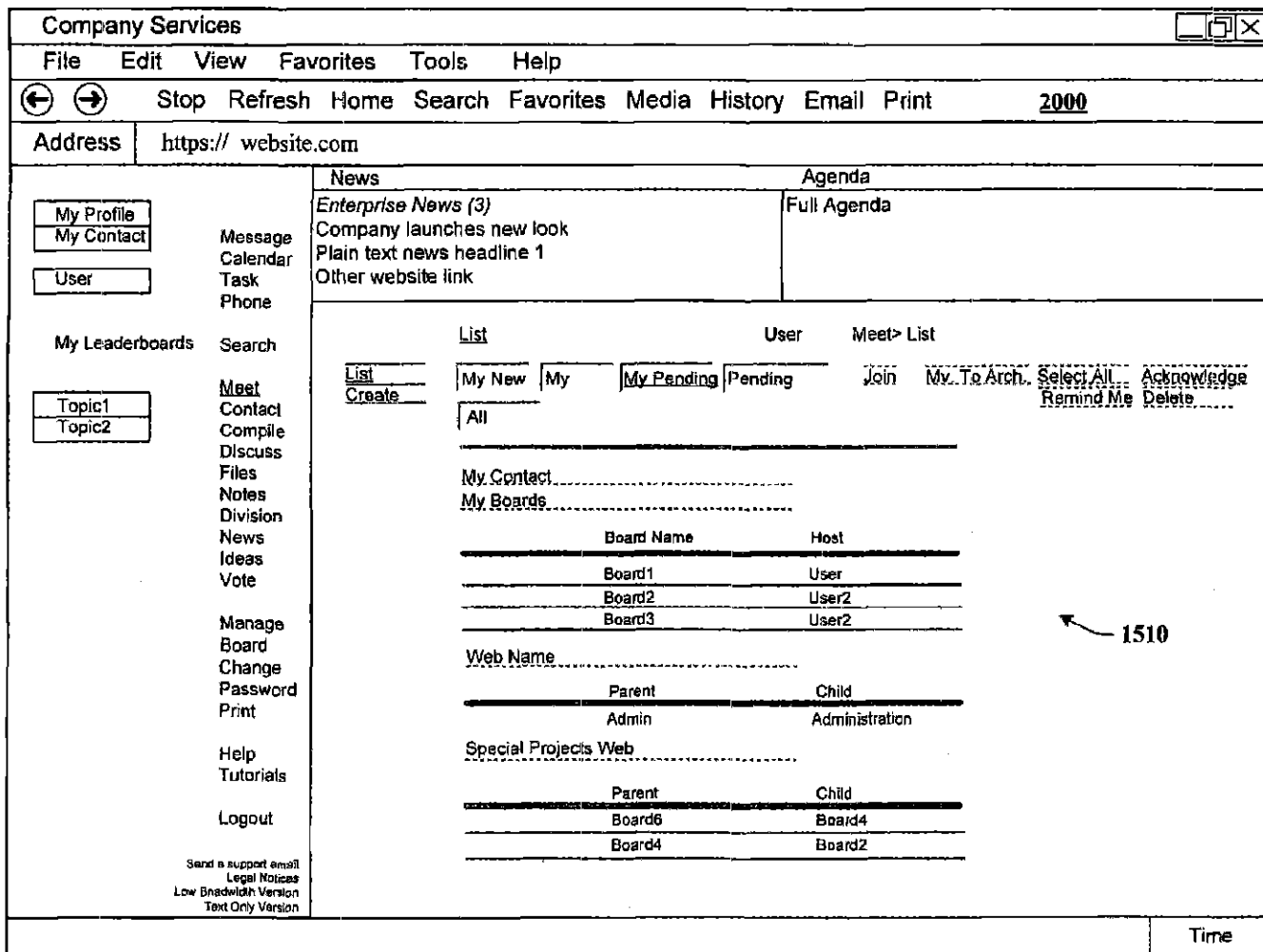


FIG. 20

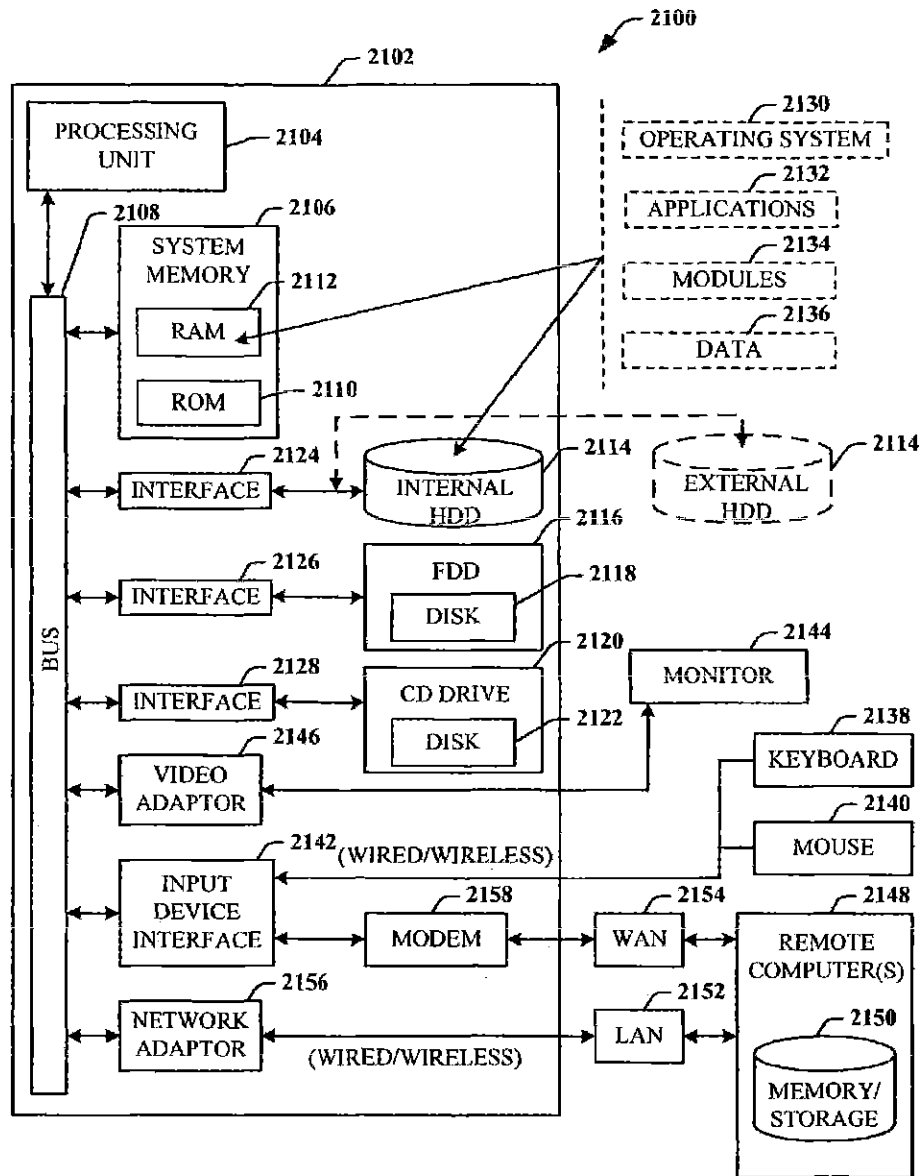


FIG. 21

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**DYNAMIC ASSOCIATION OF
ELECTRONICALLY STORED
INFORMATION WITH ITERATIVE
WORKFLOW CHANGES**

**CROSS-REFERENCE TO RELATED
APPLICATIONS**

This application claims the benefit of U.S. Provisional Patent application Ser. No. 60/432,255 entitled "METHOD FOR DYNAMIC ASSOCIATION OF ELECTRONICALLY STORED INFORMATION WITH ITERATIVE WORKFLOW CHANGES", filed Dec. 11, 2002; and is related to U.S. patent application Ser. No. 10/731,906 entitled "CONTEXT INSTANTIATED APPLICATION PROTOCOL" filed on Dec 10, 2003.

TECHNICAL FIELD

This invention is related to management and storage of electronic information. More particularly, this invention relates to new structures and methods for creating relationships between users, applications, files, and folders.

BACKGROUND OF THE INVENTION

Digital communications presently supply solutions to users in ways that are completely divorced from their business context. A particular item of communication provides little or no inherent understanding of how that communication furthers the purpose and intent of the group or enterprise. In other words, an email (electronic mail) inbox collects email messages about all topics, both business and personal. The email application itself is not discerning about topic, priority, or context beyond perhaps rudimentary "message filters" that will look for certain key words or people, and then place those items in target folders. Generally, the application simply presents a sequential list of messages received. Similarly, a fax machine receives fax pages in sequence. The fax machine is not discerning about topic, priority, or context, and simply outputs fax pages. Once received, it remains the task of the recipient to sort, categorize, and organize these items of communication in ways most meaningful to that person. The organization part of the task generally occurs outside the context of the particular communications tool itself.

Typical methods for organization of communications are limited and fragmented. For example, for an email, the recipient may either leave all the email in the inbox or move it to another electronic folder. For a fax, the recipient is likely to place that received fax in a file folder that is identified by project name or name of recipient. These typical methods of organizing communications are wholly inadequate for a number of reasons. The recipient must do all the work of organization and categorization of the communications rather than the system itself do that work. Automation of the organization of communications is non-existent. The linkage between business strategy and an individual act of communication, a leadership priority, is non-existent. With respect to categorization, the items themselves rarely apply to only one topic of interest. As such, under current systems, the items would need to be manually stored in multiple locations (either electronic or "brick and mortar" folders). For example, a letter faxed to a sales manager may contain information about contact addresses, market intelligence data, specific product requests, and financial accounting.

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Data items often relate to organizational issues for which one or more work groups need access; access that is denied when the recipient "buries" that item in his/her personal filing system, electronic or otherwise. Thus, the sharing of knowledge in this context is prohibitive.

Prior art communications tools do not know the business and/or personal context(s) within which files are created and used. For example, a person may create three files in a word processor, one relating to sales, the second relating to operations, and the third relating to a son's football team. However, the word processor itself has no way of knowing to automatically store those three files in at least three different places. Insofar as security and privacy are concerned, the applications and associated file storage methods are generally insecure, not conforming to a single, dependable security model.

Known software applications create and store files outside of a contextual framework. For example, when a user creates a word processing file using a conventional word processor application, the user typically must select a single folder within which to store that file. The file may be stored in an existing folder or the user may create a new folder to receive the file. This file management method is known as Lightweight Directory Application Protocol (LDAP). LDAP borrowed the physical world paper file management scheme where a machine/application creates files, stores those files in individual folders, and stores those folders in cabinets. Under this scheme, context is completely independent of the application. File context is limited to the decision made by the user about the folder in which the file should be stored. The user decision does not adequately represent or reflect the true context of the file given that the file may contain information that could reasonable be stored in multiple folders.

LDAP systems are suited for smaller one-to-many and many-to-one relationships. For example, an e-mail message to ten recipients is a one-to-many relationship, while ten customers sending orders to a single vendor exemplifies a many-to-one relationship. In the case of the former, the e-mail is stored in an Outbox, and the ten recipients store the received message in their respective folders, called an Inbox. In the latter case, the ten received orders are placed in an Orders folder for the associated the product.

Conventional systems are designed to allow multiple users to access the same file for collaboration purposes; however, this feature does not change the basic one-to-many and many-to-one storage paradigm. Conventional systems only attempt to optimize it.

Another limitation of LDAP is that little or no information is contained within the file about the user and, the context and circumstances of the user at the time the file was created. The people elements of an organization are simply too multi-dimensional for the limitations of conventional systems. Current processes designed to add context to files, such as a metadata tagging approach, involve having a knowledge officer view files after they have been stored and create metadata tags with additional key words associated with the file for search purposes.

The best that existing technology has done is to respond to niche requirements where automation made sense: telephone switching, voice mail, e-mail, file transfer, paging, and file storage, for example. The trend is toward a convergence of the technologies, but convergence becomes an enormous problem with these legacy systems that are now encumbered by outdated data handling and storage models that are mainframe and/or hierarchical in nature.

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Notwithstanding the usefulness of the above-described methods, a need still exists for a communications tool that associates files generated by applications with individuals, groups, and topical context automatically.

SUMMARY OF THE INVENTION

The following presents a simplified summary of the invention in order to provide a basic understanding of some aspects of the invention. This summary is not an extensive overview of the invention. It is not intended to identify key/critical elements of the invention or to delineate the scope of the invention. Its sole purpose is to present some concepts of the invention in a simplified form as a prelude to the more detailed description that is presented later.

The present invention disclosed and claimed herein, in one aspect thereof, is a data management tool that is a unified, horizontal system for communications, organization, information processing, and data storage. The tool installs on existing platforms, and is a common workflow layer that is automated with a scalable, relational database. The tool includes a relational database engine that facilitates many-to-many relationships among data elements, in addition to, one-to-many and many-to-many relationships.

The data management tool includes a novel architecture where the highest contextual assumption is that there exists an entity that consists of one or more users. The data storage model first assumes that files are associated with the user. Thus, data generated by applications is associated with an individual, group of individuals, and topical content, and not simply with a folder, as in traditional systems.

When a user logs in to the system that employs the tool, the user enters into a personal workspace environment. This workspace is called a board, and is associated with a user context. From within this board, the tool makes accessible to the user a suite of applications for creating and manipulating data. Any user operating within any board has access to the suite of applications associated with that board, and can obtain access to any data in any form (e.g., documents and files) created by the applications and to which he or she has permission. Moreover, thereafter, the user can then move to shared workspaces (or boards), and access the same data or other data.

Data created within the board is immediately associated with the user, the user's permission level, the current workspace, any other desired workspace that the user designates, and the application. This association is captured in a form of metadata and tagged to the data being created. The metadata automatically captures the context in which the data was created as the data is being created. Additionally, the data content is indexed to facilitate searching for the content in a number of different ways in the future by the user or other users. This tagging process is universal, in that, the data model allows for any binary data (e.g., files), as well as any set of definable data to be accepted into the system. The system is not restricted to processing e-mail, faxes, calendar events, meetings, phone calls, etc., that are included in the bundled system, but can also accommodate whatever data the user chooses to use. The system is also universal insofar as its user interaction can be through a browser that is pervasively employed for use with conventional operating systems.

In that the tool supports multiple users, there can be multiple boards. Two or more boards (or workspace environments) can be grouped as a collection of boards, also called a web. Boards can exist in any number of different webs. The association of webs and boards is stored in a table.

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As a user creates a context, or moves from one context to at least one other context, the data created and applications used previously by the user automatically follows the user to the next context. The change in user context is captured dynamically. All files and groups of files can be associated with any other file in the system, allowing a system user the flexibility in determining dynamic associations.

In addition to the macro view provided by webs and boards, the user can also create the more familiar hierarchical folders within any board. These are virtual folders, and nothing is physically stored in these folders.

In another aspect of the present invention, the tool provides the seamless facilitation, collection, compilation, and distribution of data.

In yet another aspect of the present invention, the tool provides links to enterprise leadership priorities.

In still another aspect of the present invention, the tool performs communications tasks while simultaneously reminding the user of his/her individual work priorities.

In another aspect thereof, the tool automatically stores contextual information relating to an item of communication and utilizes that contextual information in performance of communication tasks.

In yet another aspect thereof, the tool integrates two or more different applications such as telephony, unified messaging, decision support, document management, portals, chat, collaboration, search, vote, relationship management, calendar, personal information management, profiling, directory management, executive information systems, dashboards, cockpits, tasking, meeting, conferencing, etc., into a common application.

In another aspect thereof, the tool provides a structure for defining relationships between complex collections of data.

In still another aspect of the present invention, the tool provides a process for automating workflow between multiple entities.

To the accomplishment of the foregoing and related ends, certain illustrative aspects of the invention are described herein in connection with the following description and the annexed drawings. These aspects are indicative, however, of but a few of the various ways in which the principles of the invention may be employed and the present invention is intended to include all such aspects and their equivalents. Other advantages and novel features of the invention may become apparent from the following detailed description of the invention when considered in conjunction with the drawings.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 illustrates a block diagram of a system that facilitates the management of data in accordance with the present invention.

FIG. 2 illustrates a flow chart of a process of the present invention.

FIG. 3 illustrates a system employing a board and a web in accordance with the present invention.

FIG. 4A illustrates a diagram of board relationships.

FIG. 4B illustrates board/web relationship diagram.

FIG. 5 illustrates a flow chart of a process for board and web generation in accordance with the present invention.

FIG. 6 illustrates a sample webs-and-boards table used in accordance with the present invention.

FIG. 7 illustrates a block diagram of system in accordance with the present invention.

FIG. 8 illustrates a more detailed block diagram of a system of the present invention.

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FIG. 9 illustrates a diagram of a general structure of the management tool system.

FIG. 10 illustrates a level flow diagram of the hierarchy of the present invention for associating one or more users, context, applications, and folders with data.

FIG. 11 illustrates a system operational in accordance with the present invention.

FIG. 12 illustrates a design integration chart of the disclosed invention.

FIG. 13 illustrates one implementation of a platform system accordance with the present invention.

FIG. 14 illustrates a general system configuration of the present invention.

FIG. 15 illustrates a screenshot of a management tool window of a browser used as a user interface to facilitate user interaction with meeting information in accordance with the present invention.

FIG. 16 illustrates a screenshot of a management tool window of a browser used as a user interface to facilitate user interaction with e-mail information in accordance with the present invention.

FIG. 17 illustrates a screenshot of a management tool window of a browser used as a user interface to facilitate user interaction with a board management option in accordance with the present invention.

FIG. 18 illustrates a screenshot of a management tool window of a browser used as a user interface to facilitate user interaction with a phone option in accordance with the present invention.

FIG. 19 illustrates a screenshot of a management tool window of a browser used as a user interface to facilitate user interaction with a files option in accordance with the present invention.

FIG. 20 illustrates a screenshot of a management tool window of a browser used as a user interface to facilitate user interaction with a user context in accordance with the present invention.

FIG. 21 illustrates a block diagram of a computer operable to execute the disclosed architecture.

DETAILED DESCRIPTION OF THE INVENTION

The present invention is now described with reference to the drawings, wherein like reference numerals are used to refer to like elements throughout. In the following description, for purposes of explanation, numerous specific details are set forth in order to provide a thorough understanding of the present invention. It may be evident, however, that the present invention may be practiced without these specific details. In other instances, well-known structures and devices are shown in block diagram form in order to facilitate describing the present invention.

As used in this application, the terms "component" and "system" are intended to refer to a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution. For example, a component may be, but is not limited to being, a process running on a processor, a processor, an object, an executable, a thread of execution, a program, and/or a computer. By way of illustration, both an application running on a server and the server can be a component. One or more components may reside within a process and/or thread of execution and a component may be localized on one computer and/or distributed between two or more computers.

As used herein, the term "inference" refers generally to the process of reasoning about or inferring states of the

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system, environment, and/or user from a set of observations as captured via events and/or data. Inference can be employed to identify a specific context or action, or can generate a probability distribution over states, for example.

The inference can be probabilistic—that is, the computation of a probability distribution over states of interest based on a consideration of data and events. Inference can also refer to techniques employed for composing higher-level events from a set of events and/or data. Such inference results in the construction of new events or actions from a set of observed events and/or stored event data, whether or not the events are correlated in close temporal proximity, and whether the events and data come from one or several event and data sources.

Referring now to FIG. 1, there is illustrated a block diagram of a system 100 that facilitates the management of data in accordance with the present invention. The data management tool includes a novel architecture where the highest contextual assumption is that there exists an entity that consists of one or more users. The data management and storage model first assumes that data is associated with the user. Thus, data generated by an application employed by the user is associated with the user, groups of users, and topical content; and not simply with a folder, as in traditional systems.

In support thereof, when a user logs-in to the system 100, user data 102 is generated and associated with at least the user and the login process. The user automatically enters into a user workspace or a first context 104 (also denoted CONTEXT₁) or environment. This environment can be a default user workspace, or workspace environment pre-designated by the user or an administrator after login, for example. After login, the user can perform data operations (e.g., create and manipulate) on a data 106 in any number of ways, including, but not limited to, viewing, editing, copying, moving, and deleting the data. Such data operations can be performed using at least one application 108. For example, where the data 106 is text data, a text editing or word processing application can be employed. Many different text editor and/or word processing applications exist that can be used to create, view, edit, copy, and move the data 106, to name just a few of the operations. Where the data 106 is program code, the application 108 is one that is suitable for providing user access and interaction therewith. Where the data 106 is a voice file, the application 108 can be an application suitable for playing the voice file. This all occurs in association with the first context 104.

The system 100 also includes a context component 110 in association with the first context 104 to monitor and generate context data 112 associated with data operations of the user in the first context 104. The context data 112 includes at least data representative of the user (e.g., some or all of the user data 102), data representative of the first context 104, data representative of the data 106, and data representative of the application 108. The context data 112 can be stored in the form of a table (or any other suitable data structure) for access and processing, and at any location, as desired.

The system 100 can include a plurality of the contexts, denoted as CONTEXT₁, . . . , CONTEXT_N. Thus, in addition to the first context 104, there is at least a second context 114 with which the context component 110 is associated. This is because the user of the first context 104 can move to the second context 114, and perform many different data operations therein which will then be associated with that user in that second context 114. The data operations performed in the second context 114 are also

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associated with the user and stored automatically. Such user activities and data operations in the one or more contexts of the system 100 and movement of the user between contexts are tracked using a tracking component 116. Thus, data generated by applications is associated with an individual, group of individuals, and topical content; and not simply with a folder, as in traditional systems.

Referring now to FIG. 2, there is illustrated a flow chart of a process of the present invention. While, for purposes of simplicity of explanation, the one or more methodologies shown herein, e.g., in the form of a flow chart, are shown and described as a series of acts, it is to be understood and appreciated that the present invention is not limited by the order of acts, as some acts may, in accordance with the present invention, occur in a different order and/or concurrently with other acts from that shown and described herein. For example, those skilled in the art will understand and appreciate that a methodology could alternatively be represented as a series of interrelated states or events, such as in a state diagram. Moreover, not all illustrated acts may be required to implement a methodology in accordance with the present invention.

At 200, a user is associated with a first context. This can occur by the user logging in to a system and automatically entering a user workspace, which workspace is associated with the first context. At 202, the user assigns applications for use in the user context. This can occur explicitly by the user manually selecting the application(s) for association with the context, or implicitly by the user launching an application and performing data operations within the context. At 204, the user performs a data operation. At 206, the user changes context from the first context to a second context. At 208, the data and application(s) are then automatically associated with the second context. The process then reaches a Stop block.

As the user performs data operations in the first and second contexts, the system automatically creates and updates context data, as indicated at 210. This occurs transparently to the user, as indicated by the dashed line.

Referring now to FIG. 3, there is illustrated a system 300 employing a board 302 and a web 304 in accordance with the present invention. In the past, intuitive, dynamic, and changeable workflow processes have proved to be too dynamic and expensive for automation. Boards and webs are used to automate workflow processes and define relationships between data and applications. As users create and change their contexts, the data (e.g., files) and applications automatically follow, the shifts in context being captured dynamically in the context data. As used herein, a "board" is defined as a collection of data and application functionality related to a user-defined topic. For example, a user-defined topic may be a department of a company or a project that involves the company. In the case of a project, the board preferably includes all of the data relating to that project including email, tasks, calendar events, ideas, discussions, meetings, phone calls, files, contact records, people, etc. Data and applications may be grouped in a board based on the identity of the tag. As used herein, the term "web" refers to a collection of interrelated boards.

As implemented, the web 304 of the system 300 can include a plurality 306 of the boards 302 (also denoted as BOARD₁, BOARD₂, . . . BOARD_x). The plurality of boards 306 can each be associated with a single user, one with a single user, and others with multiples users, including or not including the user. The system 300 can also employ a plurality of webs 308 (also denoted WEB₁, WEB₂, . . . , WEB_x). The many boards 306 can be grouped in different

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combinations as webs. For example, BOARD₁, and BOARD₂ can be grouped as WEB₂. Thus, where WEB₁ includes three boards all related to a single project, the boards 306 can include finance, accounting, and resources, for example.

Referring now to FIG. 4A, there is illustrated a diagram 400 of board relationships. Boards in a web may have, for example, a parent-child relationship, although this is not required. A given board can have more than one parent and more than one child. A board cannot be its own child or its own parent. However, boards can have various relationships to each other. For example, a board may be part of a circular relationship of any complexity. Illustrated herein, a first board, BOARD₁, is parent to a second board, BOARD₂. The second board, BOARD₂, is parent to a third board, BOARD₃, and BOARD₃ is parent to the first board, BOARD₁.

Referring now to FIG. 4B, there is illustrated board/web relationship diagram 402. Boards can exist in any number of webs. Many boards will exist in more than one web. The web represents a certain view of the relationships among boards. That is, the view can be hierarchical, or the view can be in the form of a work-flow. Additionally, the relationship between two boards on one web is independent of the relationship between those same two boards on other webs. As shown, in a first web, WEB₁, BOARD₁ is a parent to BOARD₂. Yet, in a second web, WEB₂, BOARD₁ is a child to BOARD₂. In a third web, WEB₃, BOARD₁ and BOARD₂ have no relationship, but exist independent of one another. In a fourth web, WEB₄, BOARD₁ exists, but BOARD₂ does not. These are but a few examples of the web/board relationships that can exist in accordance with the present invention.

In accordance with the invention, webs may be used to maintain the location of content within a complex and changing set of boards and support automation of a workflow process. One example of automation of a changing workflow process can be illustrated where the workflow process to be automated initially is represented by A→B→C, and ultimately changed to A→B/C→D. Three different groups of people are assigned to each item, where the resulting distribution is A(1, 2, 3)+B(4, 5, 6)+C(7, 8, 9).

In the known LDAP environment, it is necessary for the automation sequence to predetermine how work data flows from A to B and C. Then the automation module for inputs to D must be spelled out and rewritten to consolidate the split inputs from B and C. As such, the automation support for this workflow change will always lag behind the ability of the people involved to start working with the new workflow assumptions.

In contrast, and in accordance with the present invention, webs and boards are the context for applications, files, and folders. Hence, the workflow process may be readily reorganized by making a change to one or more of the webs and boards. By simply adding the board D and rearranging some of the relationships of A, B, and C, the workflow is quickly reorganized and implemented.

The disclosed system has associated therewith a routing algorithm, referred to herein as a "webslice." A webslice is a relationship rule that defines a relationship between a web and one or more boards of that web. If the web changes (e.g., a board is added), and meets the criteria of the rule, the content will be on the new board as well. For example, the rule can include a web ID, a starting board ID, and "transversal" data (i.e., the relationship rule), in the following format:

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webslice (target board)=<webID; starting board ID; transversal data>.

Thus, if a system includes two webs, W1 and W2, where web W1 includes five boards: A (the starting board), B, C, D, and E, with each subsequent board a child to the previous board (i.e., B is child of A, C is child of B, etc.), the webslice data "slicing" to board E will be similar to the following:

webslice (board E)=<W1; board A; A→B→C→D→E>.

It is to be appreciated that where a child board has at least two parent boards, the webslice data can include at least two paths. For example, consider that A is the parent to both B and C, with B and C the parents to D. A webslice to D can be obtained in one of two ways:

webslice (board D)=<W1; board A; A→B→D>, or

webslice (board D)=<W1; board A; A→C→D>.

Moreover, since the webslice to a given board of a web can take at least two different paths, one path can be longer than the other to the desired board. Consider that A is the parent to both B and C, with B the parent to D, and C the parent to E, and E the parent to D. A webslice to D can be obtained in one of two ways:

webslice (board D)=<W1; board A; A→B→D>, or

webslice (board D)=<W1; board A; A→C→E→D>.

These examples are only but a few of the relationships that can be extracted using a webslice. The webslice can also take the forms of the following: "Just the board I started from" (a default); "All child boards"; "All sibling boards"; and, "All descendant boards", for example.

Thus, by using at least these three basic entities for the webslice (i.e., the web ID, the starting board ID, and the transversal data), the boards associated with a given content can be ascertained. Since content is associated with context, and the board is used in part to define the context, the system knows the content associations whereupon a change of web structure, the system knows with which board(s) the content is associated, both before and after the structure change. In keeping with one aspect of the invention, the location of the content may be determined dynamically at runtime using the webslice. Alternatively, the associated location of content may be determined by detecting changes in structure, detecting the temporary location of the content on the boards in the routing algorithm before and after the change, and adjusting the location of the affected content as part of the change in structure. Of course, the webslice data is not limited to the three aspects indicated hereinabove, but may include further information, such as at least one application ID and user ID (that uniquely identifies the creator of the content), for example.

Data created while the user is in the board is immediately associated with the user, the current workspace, any other desired workspace that the user designates, and the application. This association is captured in a form of metadata and tagged to the data being created. The metadata automatically captures the context in which the data was created as the data is being created. Additionally, the data content is indexed to facilitate searching for the content in number of different ways in the future by the user or other users. This tagging process is universal, in that, the data model allows for any binary data (e.g., files), as well as any set of definable data to be accepted into the system. The system is not restricted to processing e-mail, faxes, calendar events, meetings, phone calls, etc., that are included in the bundled system, but can also accommodate whatever data the user chooses to define. The system is also universal insofar as user interaction can be through a browser that is pervasively employed for use with conventional operating systems.

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Referring now to FIG. 5, there is illustrated a flow chart of a process for board and web generation in accordance with the present invention. At 500, a webs-and-boards table is created to track the relationship of said aspects. At 502, a user creates a board. This can be via an administrator initially configuring a person's user workspace, or thereafter, a user creating another workspace, for example, a shared workspace. At 504, the user performs data operations while in the board. The data and applications employed to operate on the data are then included as content associated with the user in this particular context. Given that there can be multiple users, there can be a corresponding one or more webs associated with the one or more users. A BOARD(S) column lists the number of boards, and select numbers of the boards can now be grouped in collections or webs, as indicated at 506, to facilitate workflow, for example. For any number of reasons, the web and board relationships can be changed, as indicated at 508. At 510, the webs-and-boards table is automatically updated as these changes occur. The process then reaches a Stop block.

Referring now to FIG. 6, there is illustrated a sample webs-and-boards table 600 used in accordance with the present invention. The table 600 includes a user information column related to a number of users (1-3 and 6-8), under the heading of USER(S). This is because the novel invention first begins by associating all aspects with the user. The table 600 also includes a WEB(S) column that associates one or more webs (W1, W2, and W3) with the one or more users. A BOARD(S) column lists the lists the boards (e.g., B11, B12, and B14) with a given web. Here the users 1, 2 and 3 are associated with a web W1 that comprises a collection boards B11, B12, and B14 (where the first digit is the associated web number, and the second digit is the board number). The table 600 also includes a parent/child relationships column (denoted as BOARD(S) P/C RELATION). Here, board B11 is the parent, and board B12 is a child, and a parent to board B14. The table 600 is not limited to the columns provided, but can include more information, as desired.

Referring now to FIG. 7, there is illustrated a block diagram of system 700 in accordance with the present invention. Generally, the system 700 includes an internal network 702 on which is disposed a services system 704 and one or more users 706 seeking use of the services system 704. The services system 704 further includes a services component 708 and an associated data storage system 710 for storing data and programs. The services system 704 includes the data management tool of the present invention.

A user at one of the user nodes 706 can access the services system 704 via a browser over a wired/wireless communication link. Given that a browser is a principal means for access, the user node can be any type of computing device and operating system that supports a browser, whether the browser is a full-blown program typically used on a desktop computing system, or a modified or slimmed down browser interface employed in a portable computing device, e.g., a personal data assistant (PDA), wireless computing tablet, and cellular/digital telephone. As illustrated, the user nodes 706 also have direct access to the data storage system 710.

The user nodes 706 can also access a global communications network 712, e.g., the Internet, using conventional communication means, thereby providing a second path for accessing the services system 704, that further facilitates direct access to the services 708 and/or the storage system 710. This second path is most important, since a user can access the system 704 from essentially anywhere.

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The services system 704 can be utilized internal to a corporate environment operating on, for example, an intranet, and providing such services only to corporate users. In another implementation, the system 704 can be disposed external to the corporate environment such that the company subscribes to the system services via a vendor.

Referring now to FIG. 8, there is illustrated a more detailed block diagram of a system 800 of the present invention. The system 800 includes the internal network 702 on which is disposed the services system 704 and the one or more users 706 seeking use of the services of the services component 708 provided thereby. The services of the services component 708 facilitate the use of the data management tool, which employs one or more webs 802 and boards 804. The tool further provides portal services 806 for accessing the services from various internal and external network locations using the TCP/IP suite of protocols. Other services provided include, but are not limited to, voice services 808 and outside services 810. Outside services 810 facilitate including non-employees and the use of third-party applications in specific projects in the system by providing various levels of access to any number of data locations and services. Read/write permissions can be granularized to the file level, if desired.

The data storage system 710 includes a number of storage methodologies 812 for handling and processing data. For example, one methodology enables large numbers of users to organize files and documents around many projects simultaneously. Data of any kind and size can be uploaded to a common shared workspace or board. Varying levels of access can be provided to the uploaded data. Other methodologies are associated with storing the data, archiving the data, data warehousing, library data, and an idea registry for tracking that aspect of the companies intellectual capital. The storage system 710 facilitates the storage and access of metadata libraries that link hierarchical and non-hierarchical LDAP folders.

As indicated hereinabove, the management tool operates seamlessly with existing computing system applications, and existing system services. For example, the conventional system services can include at least the following: e-mail, collaboration and groupware services 814 having an associated e-mail, collaboration and groupware storage system 816, voice switching services 818 (e.g., telephone and paging functions) having an associated voice data storage system 820; and multimedia services 822 having an associated multimedia storage system 824. The storage systems 816, 820, and 824 can connect to the storage system 710 to facilitate data transfer and storage in accordance with the various methodologies of the storage system 710.

A user of the users node 706 can also access the e-mail/collaboration/groupware services 814, voice switching services 818, and multimedia services 822 indirectly through the services system 704 using a multi-user data manipulation engine, e.g., OLAP (On-Line Analytical Processing). Alternatively, the user can access these services 814, 818, and 822 directly over the network 702, but shown separately as a communication link 826, and through the services 708 without using the multi-user engine.

The user can also access the services 704, other services 814, 818, and 822, and data storage system 710 over the global communications network 712 via a link 828. This is facilitated through the user browser by directing the browser to a website using a URL (Uniform Resource Locator) or through an alternative Link 830.

The management tool is browser-based and incorporates a strong-encryption scheme (e.g., using 128-bit SSL (secure

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socket layer) protocol). This means that data transmitted between the user computer and the services server is substantially secure. Furthermore, data shall not be cached, which means that there is no information footprint left on the user computer after the user logs off. The user can access data securely from virtually any network node using any type of browser. The data is stored encrypted on the storage system 710.

Referring now to FIG. 9, there is illustrated a diagram of a general structure of the management tool system 900. The structure starts at a high level with the user at a user level 902. The user level 902 is next associated with a context level 904 that defines all contexts in which the user can be included. Under the context level 904 is a web level 906 that associates one or more of the webs with one or more of the contexts of the context level 904. A boards level 908 underlies the webs level 906 and provides associations of the many boards with one or more of the webs. An applications level 910 facilitates associating one or more applications with a board designated at the board level 908. A database/folders level 912 underlies the applications level 910, and facilitates storing at least data, tables, and context information generated from the upper levels in folders, in the form of, e.g., files, at an associated underlying file level 914. A linking protocol 916 provides cross-level communication for facilitating all aspects of data processing and communication at all levels of the data management system 900.

Referring now to FIG. 10, there is a level flow diagram 1000 illustrating the hierarchy of the present invention for associating one or more users 1002, context 1004, applications 1006, and folders 1008 with data 1010. The approach is for file storage pointers of an application to be dynamic, governed initially by the folder within which the application is launched. Additionally, the file storage pointers are then accessible and acted upon by the same application from any folder in the system. This is a dynamic non-linear implementation.

Traditional collaborative technologies, like groupware, allow groups of users to take action on the same file substantially simultaneously. However, in preparation for such capabilities, all users must have compatible versions of the same application that is to be used for working with the file. The context for any folder is limited to a one-to-many and many-to-one relationship. Essentially, the folder possesses a singular context to the directory tree in which it resides.

In contrast, the disclosed architecture assumes that the highest contextual level is that of an entity consisting of a group of users forming a many-to-many architecture. The users create and use the files within the context of the workspaces or boards of one or more users, which may or may not have web relationships. In this implementation, the board is similar in function to a folder in conventional LDAP systems.

The user then uses a suite of applications within a board, with any file created being immediately associated with the user, that board, any other board desired, and the application. In other words, by the person doing simply his/her work, an enormous amount of metadata about the context(s) for that work is captured automatically. Additionally, the system indexes the content to facilitate the other ways in which the users of the system might want to search on that file in the future—ways and future contexts which are not and cannot be known by the users in advance and certainly are not facilitated by conventional systems.

The system facilitates the use of an array of applications that act independently of the boards from which they were

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launched, and those boards are capable of being ordered in a myriad of collections of relationships (i.e., webs). The applications can traverse the webs to the boards associated with the information.

In addition to a macro view obtained by webs and boards, the user can also create familiar hierarchical folders within any board. These are virtual folders, in that their storage is governed by the process described above. No data is physically stored in these folders. Finally, any file or group of files can be associated with any other file in the system, allowing the users of the system infinite flexibility in determining dynamic associations among the macro/micro components of the system.

Referring now to FIG. 11, there is illustrated a system 1100 operational in accordance with the present invention. The system 1100 includes a data management platform 1102 suitable for accommodating any number conventional operating systems (OS) 1104 (also denoted OS₁, OS₂, OS₃, . . . , OS_N). The system 1100 also facilitates the use of a single data storage system 1106 suitable for use with any of the operating systems 1104, whereas conventionally, a given OS may require a certain data storage file structure. The platform 1102 is OS-independent, and provides a single point of contact for multiple users and resources 1108.

Referring now to FIG. 12, there is illustrated a design integration chart 1200 of the disclosed invention. At the core of the system is a data management tool 1202 that facilitates all of the outlying features and capabilities. The tool 1202 facilitates, at a second layer 1204, one interface (via a browser), one application (the tool itself), one data store (associate with the management tool), and one search mechanism for finding any data element of the data store. Of course, any third party applications typically have their own search tool to search for files and folders that may also be used. At a third layer 1206, the system 1200 facilitates a secure operating environment, a scalable environment, and web-based. Moreover, the system 1200 can be implemented on any software and/or hardware platform, accommodate access from any device, and bridge to third party applications and devices. At an outer layer 1208, the system 1200 facilitates one or more instances of the following: users, contexts, workflows, projects, user-defined topics, priorities, file types, and tools. The system 1200 also is suitable for use with e-mail, facsimile, and instant messaging subsystems, multimedia services, and voice systems (e.g., phone and paging data).

The system 1200 captures and catalogs data automatically. Users, projects, permissions and communication tools can be readily configured, along with the exchange of voice information, data, and video data, seamlessly. As users collaborate, the system 1200 captures context information, and automatically records when and how data is shared, who updated the data, how often the data was accessed, what additional information the data was linked to, etc. Meeting information can be stored automatically, including, but not limited to, who attended, the documents shared, instant messages captured, handouts used, slides presented, etc. A later search can retrieve this information along with the context(s) within which the data was generated and used.

The system 1200 enables larger numbers of users to organize communications around many projects substantially simultaneously. It can relate those projects to one another using whatever workflow model(s) are required, and dynamically assign modular communications tools (e.g., e-mail, voice mail, fax, teleconferencing, document sharing, etc.) to those many projects as desired. The system 1200 automatically indexes that information within the context(s)

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in which it is received and used. This way, when a user searches the system 1200 for information, the user not only gets the information sought, but also can see how the information is currently being used by other users and project groups in the whole system. Traditionally, if a document was to be associated with seven different projects, for example, the document would be stored in seven different file locations and version control could be a significant problem. In accordance with the present invention, the document is seamlessly linked to all seven projects. Thus, only one version exists, and version control is much easier to address.

The disclosed system architecture is suited to relational and object database structures for use on a large scale. The data management tool uses both relational and object storage approaches to facilitate at least Internet-based data communications.

Referring now to FIG. 13, there is illustrated one implementation of a platform system 1300 in accordance with the present invention. The platform system 1300 includes the capability of third-party application integration, security cameras and other devices for data input, project and workflow management and, file and document sharing. The platform system 1300 also accommodates online meetings between logged-in users, and teleconferencing between the users, if desired. The teleconferencing can be initiated using the platform system 1300.

Referring now to FIG. 14, there is illustrated a general system configuration 1400 of the present invention. The system 1400 includes a platform 1402 that hosts at least the data management tool, here called a web application server 1404. The server 1404 provides a common layer to underlying services that include a database server 1406, a VRU (voice response unit) 1408 (also called an interactive VRU or IVRU) and mass storage system 1410. The VRU 1408 facilitates interactive calling features for a user via remote touchtone signals and to voice data to the caller such that the caller can make choices in response to predetermined options presented by the system.

The platform 1402 can utilize at least one multi-channel data communication connection 1412 (e.g., T1, DS3) into the VRU subsystem 1408 for communicating voice information and interacting with features of the platform 1402. As indicated previously, the invention can accommodate user communication from virtually any accessible network node. To facilitate such an interface, the platform 1402 can include a processor 1414 suitable for XML (eXtensible Markup Language), XSLT (XML Stylesheet Language: Transformations), and SSL processing. The processor 1414 can also access web-based services utilizing SOAP (Simple Object Access Protocol). SOAP employs XML syntax to send text commands across the network using HTTP (HyperText Transport Protocol). Thus, there is a high-speed connection 1416 (e.g., broadband) that interfaces to the processor layer 1414 for use with multiple communication exchanges with remote users disposed on the global communication network 712. The remote users can access the platform system 1402 via a SSL connection 1418 using portable wired/wireless devices 1420, and by way of the associated browsers 1422.

Referring now to FIG. 15, there is illustrated a screenshot of a management tool window 1500 of a browser (e.g., Internet Explorer by Microsoft Corporation) used as a user interface to facilitate user interaction with meeting information in accordance with the present invention. The window 1500 includes an address field 1502 that indicates the default protocol and URL address for accessing the data manage-

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ment system of the present invention. Here, HTTP is used to access the server via network. The "https:" indicates the connection will be to a secure port instead of a default web port. The window 1500 also includes a user area 1504 that indicates the name of the user logged into the system. There is also provided a topic area 1506 that lists the various boards associated with the user-defined topics. Here, the user has defined two topics: a Topic 1 and a Topic 2.

The window 1500 also includes an application (or services) area 1508 that lists many applications selectable by the user while in this particulate window 1500. The applications presented to the user from this window 1500 include but are not limited to the following: Message, Calendar, Task, Phone, Search, Meet, Contact, Compile, Discuss, Files, Notes, Division, News, Ideas, Vote, Manage Board, Change, Password, Print, Help, Tutorial, and Logout. Depending on the user permissions provided by an administrator, the user may see more or fewer applications.

Here, the Meet application option is selected to allow user interaction with setting up a meeting related to projects of the user. The Meet application option further includes List and Create sub-options. When the List sub-option is selected, a center viewing area 1510 is used to present board, context, web address and other information so that the user can review the existing board and context information related to setting up a meeting. Selection the Create sub-option allows the user to create a meeting in association with one or more of the boards and make changes to existing board relationships and contexts. Other user-selectable options are provided such that the user can Join in a session with one or more other users, Move data to Archive, Select all objects, set a Reminder for himself or herself, and Delete boards.

The Messaging option allows the user to give out an e-mail address of a project work area, enabling senders to send the messages to right place. Thus, the user no longer needs to manually move the messages to the appropriate folders once received in a personal message inbox. Additionally, incoming faxes are routed to the appropriate board for storage and review. Keywords and phrases in the fax are automatically indexed. Later retrieval is accommodated simply by performing a search for the keywords or phrases. Moreover, a given board can be assigned a fax number. Thus, all faxes coming in can be routed to that number, and on to the associated board.

The Vote option allows the company and organizations to communicate and gather opinions by way of voting. A question can be entered, and the users selected to whom the question(s) should be posed.

Referring now to FIG. 16, there is illustrated a screenshot of a management tool window 1600 of a browser used as a user interface to facilitate user interaction with unified messaging, including e-mail, voice mail and fax information in accordance with the present invention. The window 1600 includes many of the same fields and informational areas of the previous windows (e.g., areas 1502, 1504, 1506, and 1508 of window 1500 of FIG. 15). Here, the Message option is selected to allow user interaction with various forms of messaging support by the disclosed management architecture. The Message option further includes an instant messaging (IMessage) sub-option, in this particular implementation.

When the Email-Inbox sub-option is selected, the center viewing area 1510 is used to present the user's messaging inbox folders. The user can then open these folders to view the e-mail, voice mail and fax messages stored therein. The center viewing area 1510 also includes a drop-down menu

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1602 that allows the user to select from a variety of different folders (e.g., Main, Drafts) of the e-mail system. The user can also create and sign messages with a digital signature.

As before, other user-selectable options are provided such that the user can manipulate messaging information, including, but not limited to, Select All, Delete, Acknowledge, Remind Me, Remove, Move/Copy, Forward, and Get External Mail.

There is also provided a News link that allows the user to link to the latest corporate and/or division news.

Referring now to FIG. 17, there is illustrated a screenshot of a management tool window 1700 of a browser used as a user interface to facilitate user interaction with a board management option in accordance with the present invention. The window 1700 includes many of the same fields and informational areas of the previous windows (e.g., areas 1502, 1504, 1506, and 1508 of window 1500 of FIG. 15). Here, the Manage Board option is selected to allow user interaction with various forms of user management of boards. The associated sub-options allow the user to Edit the board attributes, and set permission levels thereto, in this particular implementation. Of course, many different additional or different options can be provided (in this window and other windows), at the discretion of the administrator. The system allows for new attributes to be added to this option as the need arises.

The center viewing area 1510 presents general board attributes 1702 of the user (e.g., user name, data, and time), and several fields for entering user information, including in this implementation, but not limited to, board description, board name, board nickname, board e-mail address, external e-mail properties (e.g., POP server, user name, and password), fax information (e.g., incoming fax number for the board and incoming fax PIN), and voice mail information (e.g., incoming voice mail number and incoming voice mail PIN).

Referring now to FIG. 18, there is illustrated a screenshot of a management tool window 1800 of a browser used as a user interface to facilitate user interaction with a phone option in accordance with the present invention. The window 1800 includes many of the same fields and informational areas of the previous windows (e.g., areas 1502, 1504, 1506, and 1508 of window 1500 of FIG. 15). The sub-options include Call History, Call Setup, Quick Call, Meet Me, and List. The central viewing area 1510 for this window 1800 simply includes a listing of phone-related events for the given user.

As before, other user-selectable options are provided such that the user can manipulate phone information, including, but not limited to, Select All, Delete, Acknowledge, and Remind Me. In addition, as with the other windows, there is include an Agenda area 1802 for presenting any agenda information of a meeting or upcoming event.

Referring now to FIG. 19, there is illustrated a screenshot of a management tool window 1900 of a browser used as a user interface to facilitate user interaction with a files option in accordance with the present invention. The window 1900 includes many of the same fields and informational areas of the previous windows (e.g., areas 1502, 1504, 1506, and 1508 of window 1500 of FIG. 15). Here, the sub-options include List, Upload, Deleted, and Check In. Thus, data can at least be listed, uploaded to the system and/or a board, deleted from the system and/or board, and checked in from a previous checkout process.

The window 1900 includes the central viewing area 1510 for viewing information requested or selected for presentation. There is also a user control area 1902 that facilitates

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listing user documents that are checked out of the system or board. There is also provided a dropdown menu 1904 for selecting from a number of folder viewing options.

Other user-selectable options are provided such that the user can manipulate documents, including, but not limited to, Select All, Delete, Acknowledge, Remind Me, Remove, Move/Copy, Check Out and Download.

Referring now to FIG. 20, there is illustrated a screenshot of a management tool window of a browser used as a user interface to facilitate user interaction with a user context in accordance with the present invention. Here, the My Context option was selected while in the Meet application option. Thus, the context information of the user is posted within the meeting space. The window 2000 also includes many of the same fields and informational areas of the previous windows (e.g., areas 1502, 1504, 1506, and 1508 of window 1500 of FIG. 15). Here, the sub-options associated with Meet include List and Create. Thus, data can at least be listed and created in accordance with the associated need. Note that other data can also be accessed and presented within an application option, for example, My Profile will show the user profile data.

The window 2000 includes the central viewing area 1510 for viewing information requested or selected for presentation. Here, the user has selected the presentation of the user context information, which also includes board information and relationships. For example, board names Board1, Board2, and Board3 are listed, along with the hosts, User (the current user) for Board1, and User2 for both boards Board2 and Board3. The web name is also listed for the collection of these three boards.

There is a Special Projects Web listed, and the associated parent/child relationships of the associated boards. For example, Board6 is a parent to Board4, and Board4 is also a parent to Board2.

Other user-selectable options are provided for the Meet option, such as Join, Move to Archive, Select All, Delete, Acknowledge, and Remind Me.

These are but only a few of the numerous windows employed to facilitate user interaction, input, and control of the management tool system. Many other windows are provided to support, for example, printing, user help, communications security, presenting user documents to other users, metering user performance, dialog and discovery forums, calendar functions, task functions, leadership tools, file system management, user context, telephone services, e-mail, voicemail, faxes, video conferencing, web conferencing, security video, reverse 911, voice broadcasting, first response unified messaging capabilities, specialized APIs, software development kit, conduct and store meetings, organizing personal contact information, enterprise webs, chat sessions, intellectual notes and ideas, workflows, compilations, user profiles, news, searching, user alerts, integration of third-party users and resources, multimedia information, user permissions, system configuration, and wireless portable device interfaces, just to name a few.

Referring now to FIG. 21, there is illustrated a block diagram of a computer operable to execute the disclosed architecture. In order to provide additional context for various aspects of the present invention, FIG. 21 and the following discussion are intended to provide a brief, general description of a suitable computing environment 2100 in which the various aspects of the present invention may be implemented. While the invention has been described above in the general context of computer-executable instructions that may run on one or more computers, those skilled in the art will recognize that the invention also may be imple-

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mented in combination with other program modules and/or as a combination of hardware and software.

Generally, program modules include routines, programs, components, data structures, etc., that perform particular tasks or implement particular abstract data types. Moreover, those skilled in the art will appreciate that the inventive methods may be practiced with other computer system configurations, including single-processor or multiprocessor computer systems, minicomputers, mainframe computers, as well as personal computers, hand-held computing devices, microprocessor-based or programmable consumer electronics, and the like, each of which may be operatively coupled to one or more associated devices.

The illustrated aspects of the invention may also be practiced in distributed computing environments where certain tasks are performed by remote processing devices that are linked through a communications network. In a distributed computing environment, program modules may be located in both local and remote memory storage devices.

A computer typically includes a variety of computer-readable media. Computer-readable media can be any available media that can be accessed by the computer and includes both volatile and nonvolatile media, removable and non-removable media. By way of example, and not limitation, computer readable media can comprise computer storage media and communication media. Computer storage media includes volatile and nonvolatile, removable and non-removable media implemented in any method or technology for storage of information such as computer readable instructions, data structures, program modules or other data. Computer storage media includes, but is not limited to, RAM, ROM, EEPROM, flash memory or other memory technology, CD-ROM, digital video disk (DVD) or other optical disk storage, magnetic cassettes, magnetic tape, magnetic disk storage or other magnetic storage devices, or any other medium which can be used to store the desired information and which can be accessed by the computer.

With reference again to FIG. 21, there is illustrated an exemplary environment 2100 for implementing various aspects of the invention that includes a computer 2102, the computer 2102 including a processing unit 2104, a system memory 2106 and a system bus 2108. The system bus 2108 couples system components including, but not limited to, the system memory 2106 to the processing unit 2104. The processing unit 2104 may be any of various commercially available processors. Dual microprocessors and other multiprocessor architectures may also be employed as the processing unit 2104.

The system bus 2108 can be any of several types of bus structure that may further interconnect to a memory bus (with or without a memory controller), a peripheral bus, and a local bus using any of a variety of commercially available bus architectures. The system memory 2106 includes read only memory (ROM) 2110 and random access memory (RAM) 2112. A basic input/output system (BIOS) is stored in a non-volatile memory 2110 such as ROM, EPROM, EEPROM, which BIOS contains the basic routines that help to transfer information between elements within the computer 2102, such as during start-up. The RAM 2112 can also include a high-speed RAM such as static RAM for caching data.

The computer 2102 further includes an internal hard disk drive (HDD) 2114 (e.g., EIDE, SATA), which internal hard disk drive 2114 may also be configured for external use in a suitable chassis (not shown), a magnetic floppy disk drive (FDD) 2116, (e.g., to read from or write to a removable diskette 2118) and an optical disk drive 2120, (e.g., reading

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a CD-ROM disk 2122 or, to read from or write to other high capacity optical media such as the DVD). The hard disk drive 2114, magnetic disk drive 2116 and optical disk drive 2120 can be connected to the system bus 2108 by a hard disk drive interface 2124, a magnetic disk drive interface 2126 and an optical drive interface 2128, respectively. The interface 2124 for external drive implementations includes at least one or both of Universal Serial Bus (USB) and IEEE 1394 interface technologies.

The drives and their associated computer-readable media provide nonvolatile storage of data, data structures, computer-executable instructions, and so forth. For the computer 2102, the drives and media accommodate the storage of any data in a suitable digital format. Although the description of computer-readable media above refers to a HDD, a removable magnetic diskette, and a removable optical media such as a CD or DVD, it should be appreciated by those skilled in the art that other types of media which are readable by a computer, such as zip drives, magnetic cassettes, flash memory cards, cartridges, and the like, may also be used in the exemplary operating environment, and further, that any such media may contain computer-executable instructions for performing the methods of the present invention.

A number of program modules can be stored in the drives and RAM 2112, including an operating system 2130, one or more application programs 2132, other program modules 2134 and program data 2136. All or portions of the operating system, applications, modules, and/or data can also be cached in the RAM 2112.

It is appreciated that the present invention can be implemented with various commercially available operating systems or combinations of operating systems.

A user can enter commands and information into the computer 2102 through one or more wired/wireless input devices, e.g., a keyboard 2138 and a pointing device, such as a mouse 2140. Other input devices (not shown) may include a microphone, an IR remote control, a joystick, a game pad, a stylus pen, touch screen, or the like. These and other input devices are often connected to the processing unit 2104 through an input device interface 2142 that is coupled to the system bus 2108, but may be connected by other interfaces, such as a parallel port, an IEEE 1394 serial port, a game port, a USB port, an IR interface, etc.

A monitor 2144 or other type of display device is also connected to the system bus 2108 via an interface, such as a video adapter 2146. In addition to the monitor 2144, a computer typically includes other peripheral output devices (not shown), such as speakers, printers, etc.

The computer 2102 may operate in a networked environment using logical connections via wired and/or wireless communications to one or more remote computers, such as a remote computer(s) 2148. The remote computer(s) 2148 may be a workstation, a server computer, a router, a personal computer, portable computer, microprocessor-based entertainment appliance, a peer device or other common network node, and typically includes many or all of the elements described relative to the computer 2102, although, for purposes of brevity, only a memory storage device 2150 is illustrated. The logical connections depicted include wired/wireless connectivity to a local area network (LAN) 2152 and/or larger networks, e.g., a wide area network (WAN) 2154. Such LAN and WAN networking environments are commonplace in offices, and companies, and facilitate enterprise-wide computer networks, such as intranets, all of which may connect to a global communication network, e.g., the Internet.

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When used in a LAN networking environment, the computer 2102 is connected to the local network 2152 through a wired and/or wireless communication network interface or adapter 2156. The adapter 2156 may facilitate wired or wireless communication to the LAN 2152, which may also include a wireless access point disposed thereon for communicating with the wireless adaptor 2156. When used in a WAN networking environment, the computer 2102 can include a modem 2158, or is connected to a communications server on the LAN, or has other means for establishing communications over the WAN 2154, such as by way of the Internet. The modem 2158, which may be internal or external and a wired or wireless device, is connected to the system bus 2108 via the serial port interface 2142. In a networked environment, program modules depicted relative to the computer 2102, or portions thereof, may be stored in the remote memory/storage device 2150. It will be appreciated that the network connections shown are exemplary and other means of establishing a communications link between the computers may be used.

The computer 2102 is operable to communicate with any wireless devices or entities operably disposed in wireless communication, e.g., a printer, scanner, desktop and/or portable computer, portable data assistant, communications satellite, any piece of equipment or location associated with a wirelessly detectable tag (e.g., a kiosk, news stand, restroom), and telephone. This includes at least Wi-Fi and Bluetooth™ wireless technologies. Thus, the communication may be a predefined structure as with conventional network or simply an ad hoc communication between at least two devices.

Wi-Fi or Wireless Fidelity, allows connection to the Internet from a couch at home, a bed in a hotel room or a conference room at work, without wires. Wi-Fi is a wireless technology like a cell phone that enables such devices, e.g., computers, to send and receive data indoors and out, and anywhere within the range of a base station. Wi-Fi networks use radio technologies called IEEE 802.11 (a, b, g, etc.) to provide secure, reliable, fast wireless connectivity. A Wi-Fi network can be used to connect computers to each other, to the Internet, and to wired networks (which use IEEE 802.3 or Ethernet). Wi-Fi networks operate in the unlicensed 2.4 and 5 GHz radio bands, with an 11 Mbps (802.11a) or 54 Mbps (802.11b) data rate or with products that contain both bands (dual band), so the networks can provide real-world performance similar to the basic 10BaseT wired Ethernet networks used in many offices.

What has been described above includes examples of the present invention. It is, of course, not possible to describe every conceivable combination of components or methodologies for purposes of describing the present invention, but one of ordinary skill in the art may recognize that many further combinations and permutations of the present invention are possible. Accordingly, the present invention is intended to embrace all such alterations, modifications and variations that fall within the spirit and scope of the appended claims. Furthermore, to the extent that the term "includes" is used in either the detailed description or the claims, such term is intended to be inclusive in a manner similar to the term "comprising" as "comprising" is interpreted when employed as a transitional word in a claim.

What is claimed is:

1. A computer-implemented network-based system that facilitates management of data, comprising:
 - a computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user inter-

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action of a user in a first context of the network-based system, the context component dynamically storing the context information in metadata associated with the user-defined data, the user-defined data and metadata stored on a storage component of the network-based system; and

a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically updating the stored metadata based on the change, wherein the user accesses the data from the second context.

2. The system of claim 1, the context component is associated with a workspace, which is a collection of data and application functionality related to the user-defined data.

3. The system of claim 1, the context component is associated with a web, which web is a collection of interrelated workspaces, the web maintains a location of data of the respective interrelated workspaces when one or more of the interrelated workspaces are moved into a different workspace interrelationship.

4. The system of claim 1, the context information includes a relationship between the user and at least one of an application, application data, and user environment.

5. The system of claim 1, the context component captures context information of the first context and context information related to at least one other context.

6. The system of claim 5, the context information of the at least one other context is at least one of stipulated by the user and suggested automatically by the system based upon search and association criteria set by the user.

7. The system of claim 1, wherein data created in the first context is associated with data created in the second context.

8. The system of claim 1, the context information is tagged to the user-defined data via the metadata when the user-defined data is created.

9. A computer-implemented method of managing data, comprising computer-executable acts of:

- creating data within a user environment of a web-based computing platform via user interaction with the user environment by a user using an application, the data in the form of at least files and documents;
- dynamically associating metadata with the data, the data and metadata stored on a storage component of the web-based computing platform, the metadata includes information related to the user, the data, the application, and the user environment;
- tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform; and
- dynamically updating the stored metadata with an association of the data, the application, and the second user environment wherein the user employs at least one of the application and the data from the second environment.

10. The method of claim 9, further comprising capturing context information of the user.

11. The method of claim 9, further comprising indexing content of the user environment such that a plurality of users can access the content from an associated plurality of user environments.

12. The method of claim 9, the least one of the data and the application is associated automatically with the second user environment.

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13. The method of claim 9, further comprising accessing the user environment and the second user environment using a browser.

14. The method of claim 9, further comprising communicating with the user environment using a TCP/IP communication protocol.

15. The method of claim 9, further comprising locating the user environment from a remote location using a URL address.

16. The method of claim 9, further comprising accessing the user environment via a portable wireless device.

17. A computer-implemented method of managing data, comprising computer-executable acts of:

- generating a plurality of user environments in a web-based system;
- ordering two or more of the plurality of user environments according to different arrangements of the user environments;
- providing a plurality of applications for generating and processing data in the user environments, data of a user environment is dynamically associated with the user environment in metadata that corresponds to the data;
- creating an association of the data with a second user environment when the data is accessed from the second user environment;
- dynamically storing the association of the data and the second user environment in the metadata;
- storing in a storage component ordering information related to the ordering of the two or more of the plurality of user environments; and
- traversing the different arrangements of the user environments with one or more of the applications based on the ordering information to locate the data associated with the user environments.

18. The method of claim 17, the act of traversing is performed using a webslice that includes traversal information for locating the data associated with a given user environment.

19. The method of claim 18, the traversal information includes at least a collection ID, a user environment ID, and a routing path to the location of the environment data.

20. The method of claim 17, the different arrangements, user environments, and associated data carry both hierarchical and non-hierarchical associations simultaneously within the plurality of applications.

21. A computer-readable medium for storing computer-executable instructions for a method of managing data, the method comprising:

- creating data related to user interaction of a user within a user workspace of a web-based computing platform using an application;
- dynamically associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace;
- tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform;
- dynamically associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace; and
- indexing the data created in the user workspace such that a plurality of different users can access the data via the metadata from a corresponding plurality of different user workspaces.

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22. A computer-implemented system that facilitates management of data, comprising:

computer-implemented means for creating data by interaction of a user within a user workspace of a server using an application;

computer-implemented means for associating metadata with the data, the metadata stored in association with the data on storage means of the server, the metadata includes information related to a user of the user workspace, to the data, to the application and to the user workspace;

computer-implemented means for tracking movement of the user from the user workspace to a second user workspace of the server; and

computer-implemented means for dynamically associating the data and the application with the second user workspace in the metadata such that the user can employ the application and data from the second user workspace.

23. A computer-implemented system that facilitates management of data, comprising:

a computer-implemented context component of a web-based server for defining a first user workspace of the web-based server, assigning one or more applications to the first user workspace, capturing context data associated with user interaction of a user while in the first user workspace, and for dynamically storing the context data as metadata on a storage component of the web-based server, which metadata is dynamically associated with data created in the first user workspace; and

a computer-implemented tracking component of the web-based server for tracking change information associated with a change in access of the user from the first user workspace to a second user workspace, and dynamically storing the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace.

24. The system of claim 23, wherein the tracking component automatically creates the metadata when the user accesses the first user workspace.

25. The system of claim 23, wherein the context component captures relationship data associated with a relationship between the first user workspace and at least one other user workspace.

26. The system of claim 23, wherein an application associated with the first user workspace is automatically

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accessible via the second user workspace when the user moves from the first user workspace to the second user workspace.

27. The system of claim 23, wherein context data relating to an item of communication is automatically stored and used in performance of communication tasks.

28. The system of claim 23, wherein the context component captures data and application functionality related to a user-defined topic of the first user workspace, and includes the data and application functionality in the metadata.

29. The system of claim 23, wherein when the data created in the first user workspace is accessed from the second user workspace, in response to which the context component adds information to the metadata about the second user workspace.

30. The system of claim 23, wherein the first user workspace is associated with a plurality of different applications, the plurality of different applications comprising telephony, unified messaging, decision support, document management, portals, chat, collaboration, search, vote, relationship management, calendar, personal information management, profiling, directory management, executive information systems, dashboards, cockpits, tasking, meeting and, web and video conferencing.

31. The system of claim 23, wherein the storage component stores the data and the metadata according to at least one of a relational and an object storage methodology.

32. The system of claim 23, wherein storing of the metadata in the storage component in association with data facilitates many-to-many functionality of the data via the metadata.

33. The system of claim 23, wherein the first user workspace provides access to at least one communications tool, which includes e-mail, voicemail, fax, teleconferencing, instant message, chat, contacts, calendar, task, notes, news, ideas, vote, web and video conferencing, and document sharing functionality.

34. The system of claim 23, wherein one or more applications include file storage pointers that are dynamic and associated with the first user workspace.

35. The system of claim 23, wherein the context component facilitates encryption of the data generated in the first user workspace.

* * * * *

EXHIBIT B

Notice of Allowability	Application No.	Applicant(s)	
	10/732,744	MCKIBBEN ET AL.	
	Examiner	Art Unit	
	DIANE D. MIZRAHI	2165	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 8-15-06.
2. The allowed claim(s) is/are 18-26,28,29,31-41,45-49,51-57 and 59.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>8-15-06</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
|--|--|

DIANE MIZRAHI
PRIMARY EXAMINER

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Claims 18-26, 28, 29, 31-41, 45-49, 51-57 and 59 are currently pending. Claims 1-17, 27, 30, 42-44, 50 and 58 have been cancelled.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Eric D. Jorgenson on August 15, 2006.

The application has been amended as follows:

Amendment to the Specification:

Delete paragraph (page 28) lines 1-9.

Amendment to the Claims:

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Claims 1-17 (Cancelled)

18. (Currently Amended) A computer-implemented network-based system that facilitates management of data, comprising:

a computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user interaction of a user in a first context of the network-based system, the context component dynamically storing the context information in metadata associated with the user-defined data, the user-defined data and metadata stored on a storage component of the network-based system; and

a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically ~~automatically~~ updating the stored metadata based on the change, wherein the user accesses the data from the second context.

19. (Previously presented) The system of claim 18, the context component is associated with a workspace, which is a collection of data and application functionality related to the user-defined data.

20. (Previously Presented) The system of claim 18, the context component is associated with a web, which web is a collection of interrelated workspaces, the web maintains a location of data of the respective interrelated workspaces when

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one or more of the interrelated workspaces are moved into a different workspace interrelationship.

21. (Previously Presented) The system of claim 18, the context information includes a relationship between the user and at least one of an application, application data, and user environment.

22. (Previously Presented) The system of claim 18, the context component captures context information of the first context and context information related to at least one other context.

23. (Previously Presented) The system of claim 22, the context information of the at least one other context is at least one of stipulated by the user and suggested automatically by the system based upon search and association criteria set by the user.

24. (Previously Presented) The system of claim 18, wherein data created in the first context is associated with data created in the second context.

25. (Previously presented) The system of claim 18, the context information is tagged to the user-defined data via the metadata when the user-defined data is created.

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26. (Currently Amended) A computer-implemented method of managing data, comprising computer-executable acts of:

creating data within a user environment of a web-based computing platform via user interaction with the user environment by a user using an application, the data in the form of at least files and documents;

dynamically associating metadata with the data, the data and metadata stored on a storage component of the web-based computing platform, the metadata includes information related to the user, the data, the application, and the user environment;

tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform; and

dynamically updating the stored metadata with an association of the data, the application, and the second user environment wherein at least one of the data and the application with the second user environment such that the user employs the at least one of the application and the data from the second environment.

27. (Canceled)

28. (Original) The method of claim 26, further comprising capturing context information of the user.

29. (Previously Presented) The method of claim 26, further comprising indexing content of the user environment such that a plurality of users can access the content from an associated plurality of user environments.

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30. (Canceled)

31. (Original) The method of claim 26, the least one of the data and the application is associated automatically with the second user environment.

32. (Previously Presented) The method of claim 26, further comprising accessing the user environment and the second user environment using a browser.

33. (Original) The method of claim 26, further comprising communicating with the user environment using a TCP/IP communication protocol.

34. (Original) The method of claim 26, further comprising locating the user environment from a remote location using a URL address.

35. (Original) The method of claim 26, further comprising accessing the user environment via a portable wireless device.

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36. (Currently Amended) A computer-implemented method of managing data, comprising computer-executable acts of:

generating a plurality of user environments in a web-based system;

ordering two or more of the plurality of user environments according to different arrangements of the user environments;

providing a plurality of applications for generating and processing data in the user environments, the data of a user environment is dynamically associated with the user environment in metadata that corresponds to the data;

creating an association of the data with a second user environment when the data is accessed from the second user environment;

dynamically storing the association of the data and the second user environment in the metadata;

storing in a storage component ordering information related to the ordering of the two or more of the plurality of user environments; and

traversing the different arrangements of the user environments with one or more of the applications based on the ordering information to locate the data associated with the user environments therewith.

37. (Previously presented) The method of claim 36, the act of traversing is performed using a webslice that includes traversal information for locating the data associated with a given user environment.

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38. (Original) The method of claim 37, the traversal information includes at least a collection ID, a user environment ID, and a routing path to the location of the environment data.

39. (Previously presented) The method of claim 36, the different arrangements, user environments, and associated data carry both hierarchical and non-hierarchical associations simultaneously within the plurality of applications.

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40. (Previously presented) A computer-readable medium for storing computer-executable instructions for a method of managing data, the method comprising:

creating data related to user interaction of a user within a user workspace of a web-based computing platform using an application;

dynamically associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace;

tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform;

dynamically associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace; and

indexing the data created in the user workspace such that a plurality of different users can access the data via the metadata from a corresponding plurality of different user workspaces.

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41. (Currently Amended) A computer-implemented system that facilitates management of data, comprising:

computer-implemented means for creating data by interaction of a user within a user workspace of a server using an application;

computer-implemented means for associating metadata with the data, the metadata stored in association with the data on storage means of the server, the metadata includes information related to a user of the user workspace, to the data, to the application and to the user workspace;

computer-implemented means for tracking movement of the user from the user workspace to a second user workspace of the server; and

computer-implemented means for dynamically associating the data and the application with the second user workspace in the metadata such that the user can employ the application and data from the second user workspace.

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Claims 42-44 (Cancelled)

45. (Currently Amended) A computer-implemented system that facilitates management of data, comprising:

a computer-implemented context component of a web-based server for defining a first user workspace of the web-based server, assigning one or more applications to the first user workspace, capturing context data associated with user interaction of a user while in the first user workspace, and for dynamically storing the context data as metadata on a storage component of the web-based server, which metadata is dynamically associated with data created in the first user workspace; and

a computer-implemented tracking component of the web-based server for tracking change information associated with a change in access of the user from the first user workspace to a second user workspace, and dynamically storing the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace.

46. (Previously Presented) The system of claim 45, wherein the tracking component automatically creates the metadata when the user accesses the first user workspace.

47. (Previously Presented) The system of claim 45, wherein the context component captures relationship data associated with a relationship between the first user workspace and at least one other user workspace.

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48. (Previously Presented) The system of claim 45, wherein an application associated with the first user workspace is automatically accessible via the second user workspace when the user moves from the first user workspace to the second user workspace.

49. (Previously Presented) The system of claim 45, wherein context data relating to an item of communication is automatically stored and used in performance of communication tasks.

50. (Canceled)

51. (Previously Presented) The system of claim 45, wherein the context component captures data and application functionality related to a user-defined topic of the first user workspace, and includes the data and application functionality in the metadata.

52. (Currently Amended) The system of claim 45, wherein when the data created in the first user workspace is accessed from [[a]] the second user workspace, in response to which the context component adds information to the metadata about the second user workspace.

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53. (Previously Presented) The system of claim 45, wherein the first user workspace is associated with a plurality of different applications, the plurality of different applications comprising telephony, unified messaging, decision support, document management, portals, chat, collaboration, search, vote, relationship management, calendar, personal information management, profiling, directory management, executive information systems, dashboards, cockpits, tasking, meeting and, web and video conferencing.

54. (Previously presented) The system of claim 45, wherein the storage component stores the data and the metadata according to at least one of a relational and an object storage methodology.

55. (Previously presented) The system of claim 45, wherein storing of the metadata in the storage component in association with data facilitates many-to-many functionality of the data via the metadata.

56. (Previously Presented) The system of claim 45, wherein the first user workspace provides access to at least one communications tool, which includes e-mail, voicemail, fax, teleconferencing, instant message, chat, contacts, calendar, task, notes, news, ideas, vote, web and video conferencing, and document sharing functionality.

57. (Previously Presented) The system of claim 45, wherein one or more applications include file storage pointers that are dynamic and associated with the first user workspace.

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58. (Canceled)

59. (Previously Presented) The system of claim 45, wherein the context component facilitates encryption of the data generated in the first user workspace.

Comments

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

As allowable subject matter has been indicated, Applicant's response must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP section 707.07(a).

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Allowable Subject Matter

Claims 18-26, 28, 29, 31-41, 45-49, 51-57 and 59 are allowed over the prior art made of record.

Other Prior Art Made of Record

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions. Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane D. Mizrahi whose telephone number is 571-272-4079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone numbers for the organization where this application or proceeding is assigned

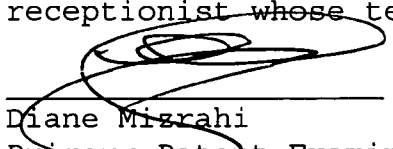
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are (703) 872-9306 for regular communications and (703) 305-3900 for After Final communications.

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



Diane Mizrahi
Primary Patent Examiner
Technology Center 2100

August 15, 2006

EXHIBIT C

**IN THE UNITED STATES COURT
FOR THE DISTRICT OF DELAWARE**

LEADER TECHNOLOGIES, INC., a Delaware corporation,)	
	)	CIVIL ACTION
)	
Plaintiff and Counterdefendant,	)	No. 1:08-cv-00862-JJF
)	
v.)	
)	
FACEBOOK, INC., a Delaware corporation,)	
)	
)	
Defendant and Counterclaimant.)	
)	

EXPERT REPORT OF SAUL GREENBERG, PH.D

Steven L. Caponi (DE Bar #3484)
BLANK ROME LLP
 1201 N. Market Street
 Wilmington, DE 19801
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*Attorneys for Defendant and
 Counterclaimant Facebook, Inc.*

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 Melissa H. Keyes (*pro hac vice*)
COOLEY GODWARD KRONISH LLP
 3000 El Camino Real
 5 Palo Alto square, 4th floor
 Palo Alto, CA 94306

Dated: April 8, 2010

have neglected to list any materials on Exhibit B that I have reviewed, they are identified in this Report.

24. To the extent a term was not construed by the Court in the Order issued on March 9, 2010, or for which the Court indicated that no separate construction was necessary, I have applied a meaning that one of ordinary skill in the art could give to that term. Otherwise, I have applied the terms in my analysis as set forth in the Order.

VIII. OVERVIEW OF THE '761 PATENT

25. The '761 patent, entitled "Dynamic Association of Electronically Stored Information With Iterative Workflow Changes," states that its field of invention "relates to management and storage of electronic information. More particularly, this invention relates to new structures and methods for creating relationships between users, applications, files, and folders." ['761 Patent, Col. 1:20]¹. In filing the application for the '761 patent, the applicants stated in the Background that prior art systems were limited because they did not know the "context" in which files were created or used:

"Prior art communications tools do not know the business and/or personal context(s) within which files are created and used. For example, a person may create three files in a word processor, one relating to sales, the second relating to operations, and the third relating to a son's football team. However, the word processor itself has no way of knowing to automatically store those three files in at least three different places." ['761 Patent, Col. 2:6]

The Background of the '761 patent goes on to emphasize how the prior art is limited as it creates and stores files outside of a contextual framework, e.g., within a conventional file/folder system:

¹ Throughout my Report, I quote from columns and lines of certain U.S. or foreign patent references, specifically the '761 patent and the prior art references. My citations following such quotations will generally conform to the following format: [xxx Patent, Col. a:b], where "a" and "b" identify the column and line, respectively, where the quotation may be found in the cited document.

“Known software applications create and store files outside of a contextual framework. For example, when a user creates a word processing file using a conventional word processor application, the user typically must select a single folder within which to store that file. The file may be stored in an existing folder or the user may create a new folder to receive the file.... Under this scheme, context is completely independent of the application. File context is limited to the decision made by the user about the folder in which the file should be stored. The user decision does not adequately represent or reflect the true context of the file given that the file may contain information that could reasonable be stored in multiple folders.” [‘761 Patent, Col. 2:17].

26. The ‘761 patent then summarizes the perceived need for a tool that automatically associates application files with various contexts:

“Notwithstanding the usefulness of the above-described methods, a need still exists for a communications tool that associates files generated by applications with individuals, groups, and topical context automatically.” [‘761 Patent, Col. 3:1].

27. The ‘761 patent then describes a computer-implemented system or computer-implemented method that supposedly meets this need. Independent claim 1, reproduced below, is illustrative of the applicants’ approach.

1. A computer-implemented network-based system that facilitates management of data, comprising:

a computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user interaction of a user in a first context of the network-based system, the context component dynamically storing the context information in metadata associated with the user-defined data, the user-defined data and metadata stored on a storage component of the network-based system; and

a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically updating the stored metadata based on the change, wherein the user accesses the data from the second context.

The process outlined in claim 1 above can be paraphrased as a three-step computer-implemented process running on a network-based system. First, as a user interacts within a “first context” to define/create some data, a *context component* captures *context information* associated with the

data, and *dynamically stores* that information as *metadata* associated with that data. Second, when the user changes from the “first context” to a “second context,” a *tracking component* tracks that change and *dynamically updates* the stored *metadata* based on that change. Third, the user accesses the data from the second context into which the user has moved.

28. The other independent claims asserted in this litigation (i.e. claims 9, 21 and 23) are, generally speaking, variations on claim 1 with similar requirements but using somewhat different terminology. To the extent the differences between claim 1 and the other asserted independent claims are significant to the invalidity analysis presented in this Report, such differences are reflected in my more detailed analysis below.

IX. OVERVIEW OF BACKGROUND ART

29. One of the concepts appearing in the claims of the '761 patent is the capture and storage of contextual information as metadata associated with user data, and tracking actions by users over time. These concepts were basic and well-known in computer science long before the '761 patent was filed. The paragraphs below provide a partial list of this background art.

A. Audit Trails

30. One common technology of capturing data associated with user data and tracking actions over time is the audit trail. *Microsoft Computer Dictionary* (a popular dictionary for computer science terms), for example, defines an audit trail as follows:

Audit trail. *n.* In reference to computing, a means of tracing all activities affecting a piece of information, such as a data record, from the time it is entered into a system to the time it is removed. An audit trail makes it possible to document, for example, who made changes to a particular record and when. [*Microsoft Computer Dictionary*, 3d Ed. (1997) at 36].

Executed this 3rd day of April 2010.

I declare that to the best of my knowledge the foregoing is true and correct as to the facts stated and my opinions as expressed.

By:

A handwritten signature in blue ink that reads "Saul Greenberg". The signature is written in a cursive style with a prominent horizontal stroke at the end.

Saul Greenberg, Ph.D.

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to the within action. My business address is 3000 El Camino Real, Five Palo Alto Square, Palo Alto, CA 94306.

On April 8, 2010, I served the following document:

EXPERT REPORT OF SAUL GREENBERG, PH.D

on the interested parties in this action follows:

<p><u>BY E-MAIL:</u></p> <p>Paul J. Andre, Esq. Lisa Kobialka, Esq. James Hannah, Esq. King & Spalding 333 Twin Dolphin Drive, Suite 400 Redwood Shores, CA 94065</p> <p>pandre@kslaw.com lkobialka@kslaw.com jhannah@kslaw.com</p>	<p><u>BY E-MAIL:</u></p> <p>Philip A. Rovner, Esq. Potter Anderson & Corroon LLP P.O. Box 951 Wilmington, DE 19899-0951</p> <p>provner@potteranderson.com</p>
--	--

[XX] BY ELECTRONIC MAIL: I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed above.

[XX] BY OVERNIGHT MAIL: I served the exhibits to the Report the the above parties by Federal Express. I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of correspondence for overnight delivery, and I caused such documents described herein to be deposited for delivery to a facility regularly maintained by Federal Express for overnight delivery.

I declare that I am employed in the office of a member of the bar of this Court at whose directions the service was made. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 8, 2010 at Palo Alto, California.

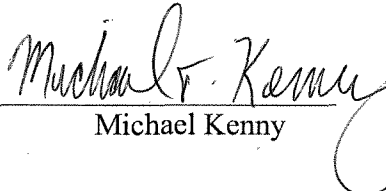

Michael Kenny

EXHIBIT D

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

)
)
LEADER TECHNOLOGIES, INC.,)
)
 Plaintiff,)
)
v.) Case No. 08-cv-862 JJF (LPS)
)
FACEBOOK, INC.)
)
 Defendant.)
)

EXPERT REPORT OF MICHAEL KEARNS, PH.D

**HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY – SOURCE CODE
(SUBJECT TO PROTECTIVE ORDER)**

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IV. Background of the '761 Patent

11. The '761 patent, entitled “Dynamic Association of Electronically Stored Information with Iterative Workflow Changes,” relates generally to the storage and management of information. The '761 patent disclosure contains 18 figures and nearly 20 columns of textual description, but as shown below, only a few paragraphs of the textual description of the patent and only a couple of its figures directly address the specific systems and methods set forth in the claims of the '761 patent that have been asserted in this case. In providing the following general tutorial of the patent disclosure (which I also intend to present at trial), therefore, I will focus on those aspects of the '761 patent that are most pertinent to the specific systems and methods described in the asserted claims.

12. The '761 patent purports to describe systems and methods for facilitating the management of data. In the Background of the Invention, the patent criticizes certain prior art methods of organizing data and electronic communications because they are perceived to be “limited and fragmented” and “wholly inadequate” because “[a]utomation of organization of communications is non-existent.” Col. 1:47-58. The patent asserts that, in the context of electronic communications, “[t]he recipient must do all the work of organization and categorization of the communications rather than the system itself do [sic] that work.” Col. 1:54-56. The Background concludes by stating that “a need still exists for a communications tool that associates files generated by applications with individuals, groups, and topical context automatically.” Col. 3:2-4.

13. The patent attempts to address these perceived deficiencies by describing a system that includes three specific features, which are incorporated into each asserted claim of the '761 patent: (1) data or information created by a user is created within a particular “context,” “user environment,” or “workspace,” and (2) that data is linked and associated to that user (in “metadata”) such that (3) when the user moves to a second context, user environment or workspace, the metadata associated with the data is

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automatically updated and the data automatically follows that user to the new context, environment or workspace. The system therefore purports to allow users to automatically access and manage their data across more than one context, user environment or user workspace, without manual action by the user.

14. As explained in the Summary of the Invention: “The data management tool includes a novel architecture where the highest contextual assumption is that there exists an entity that consists of one or more users. The data storage model first assumes that files are associated with the user. Thus, data generated by applications is associated with an individual, group of individuals, and topical content, and not simply with a folder, as in traditional systems.” Col. 3:25-31. The next paragraph of the Summary of the Invention sets forth an example system in which this concept of association or linking is further described:

When a user logs in to the system that employs the tool, the user enters into a personal workspace environment. This workspace is called a board, and is associated with a user context. From within this board, the tool makes accessible to the user a suite of applications for creating and manipulating data. Any user operating within any board has access to the suite of applications associated with that board, and can obtain access to any data in any form (e.g., documents and files) created by the applications and to which he or she has permission. Moreover, thereafter, the user can then move to shared workspaces (or boards), and access the same data or other data.

Data created within the board is immediately associated with the user, the user's permission level, the current workspace, any other desired workspace that the user designates, and the application. This association is captured in a form of metadata and tagged to the data being created. The metadata automatically captures the context in which the data was created as the data is being created. Additionally, the data content is indexed to facilitate searching for the content in a number of different ways in the future by the user or other users. This tagging process is universal, in that, the data model allows for any binary data (e.g., files), as well as any set of definable data

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to be accepted into the system. The system is not restricted to processing e-mail, faxes, calendar events, meetings, phone calls, etc., that are included in the bundled system, but can also accommodate whatever data the user chooses to use. The system is also universal insofar as its user interaction can be through a browser that is pervasively employed for use with conventional operating systems.

In that the tool supports multiple users, there can be multiple boards. Two or more boards (or workspace environments) can be grouped as a collection of boards, also called a web. Boards can exist in any number of different webs. The association of webs and boards is stored in a table. *As a user creates a context, or moves from one context to at least one other context, the data created and applications used previously by the user automatically follows the user to the next context. The change in user context is captured dynamically.* All files and groups of files can be associated with any other file in the system, allowing a system user the flexibility in determining dynamic associations. Col. 3:32-4:7.

15. This basic system is embodied in every asserted claim of the '761 patent, as explained below. The system is further described in two figures of the '761 patent (Figs. 1 and 2) and two columns (columns 6 and 7) under the section entitled "Detailed Description of the Invention." Figure 1 (which is also reproduced on the face of the patent) shows the basic system components:

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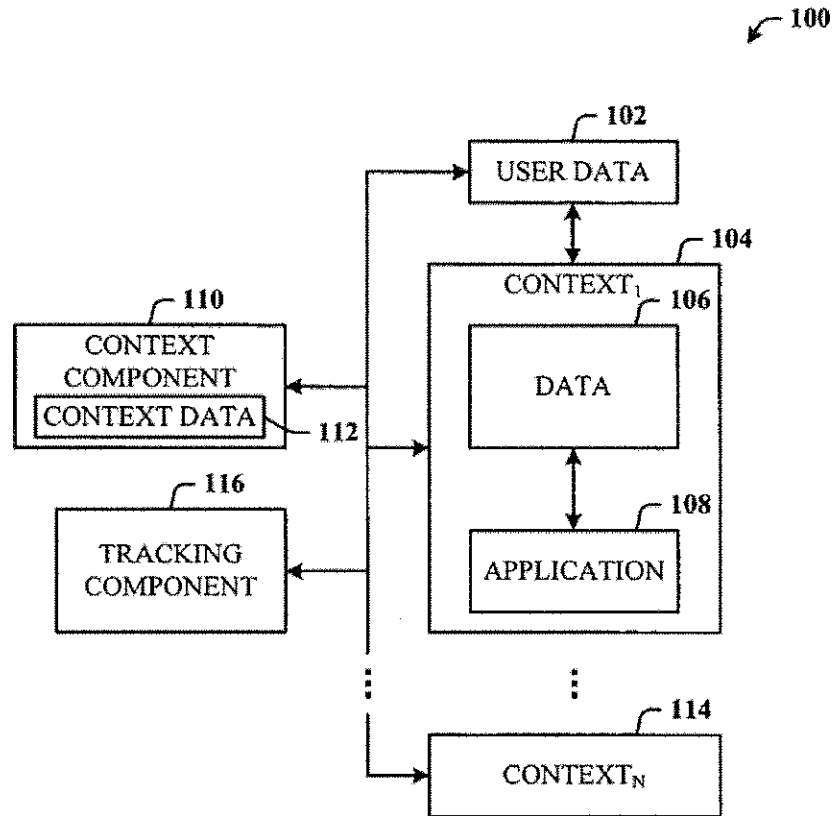


FIG. 1

16. As shown in Figure 1 above, the data management system (100) includes a context component (110), a tracking component (116), a first context (104) and at least one other context (114). Within the first context (104) exists data that is created by a user (106), as well as an application for use by the user (108). The textual description corresponding to Figure 1, which echoes much of what was in the Summary of the Invention discussed above, further explains:

Referring now to FIG. 1, there is illustrated a block diagram of a system 100 that facilitates the management of data in accordance with the present invention. The data management tool includes a novel architecture where the highest contextual assumption is that there exists an entity

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that consists of one or more users. *The data management and storage model first assumes that data is associated with the user.* Thus, data generated by an application employed by the user is associated with the user, groups of users, and topical content; and not simply with a folder, as in traditional systems.

In support thereof, when a user logs-in to the system **100**, user data **102** is generated and associated with at least the user and the login process. The user automatically enters into a user workspace or a first context **104** (also denoted CONTEXT1) or environment. This environment can be a default user workspace, or workspace environment predesignated by the user or an administrator after login, for example. After login, the user can perform data operations (e.g., create and manipulate) on a data **106** in any number of ways, including, but not limited to, viewing, editing, copying, moving, and deleting the data. Such data operations can be performed using at least one application **108**. For example, where the data **106** is text data, a text editing or word processing application can be employed. Many different text editor and/or word processing applications exist that can be used to create, view, edit, copy, and move the data **106**, to name just a few of the operations. Where the data **106** is program code, the application **108** is one that is suitable for providing user access and interaction therewith. Where the data **106** is a voice file, the application **108** can be an application suitable for playing the voice file. This all occurs in association with the first context **104**.

The system **100** also includes a context component **110** in association with the first context **104** to monitor and generate context data **112** associated with data operations of the user in the first context **104**. *The context data **112** includes at least data representative of the user (e.g., some or all of the user data **102**), data representative of the first context **104**, data representative of the data **106**, and data representative of the application **108**.* The context data **112** can be stored in the form of a table (or any other suitable data structure) for access and processing, and at any location, as desired.

The system **100** can include a plurality of the contexts, denoted as CONTEXT1, . . . , CONTEXTN. Thus, in addition to the first context **104**, there is at least a second

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context **114** with which the context component **110** is associated. This is because the user of the first context **104** can move to the second context **114**, and perform many different data operations therein which will then be associated with that user in that second context **114**. The data operations performed in the second context **114** are also associated with the user and stored automatically. Such user activities and data operations in the one or more contexts of the system **100** and movement of the user between contexts are tracked using a tracking component **116**. Thus, data generated by applications is associated with an individual, group of individuals, and topical content; and not simply with a folder, as in traditional systems. Col. 6:15-7:7.

17. The '761 patent goes on to describe Figure 2, which illustrates the basic process that appears throughout each asserted claim of the '761 patent. I have placed Figure 2 with the corresponding text, side-by-side, below:

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Figure 2	Corresponding Description
<pre> graph TD START([START]) --> 200[USER ASSOCIATES WITH A FIRST CONTEXT] 200 --> 202[USER ASSIGNS APP(S)] 202 --> 204[USER PERFORMS A DATA OPERATION] 204 --> 206[USER CHANGES CONTEXT] 206 --> 208[APPS AND DATA ASSOCIATED WITH NEW CONTEXT] 208 --> STOP([STOP]) 210[AUTO CREATE AND UPDATE CONTEXT DATA] -.-> 200 210 -.-> 202 210 -.-> 204 210 -.-> 206 208 -.-> STOP </pre>	<p>“At 200, a user is associated with a first context. This can occur by the user logging in to a system and automatically entering a user workspace, which workspace is associated with the first context. At 202, the user assigns applications for use in the user context. This can occur explicitly by the user manually selecting the application(s) for association with the context, or implicitly by the user launching an application and performing data operations within the context. At 204, the user performs a data operation. At 206, the user changes context from the first context to a second context. At 208, the data and application(s) are then automatically associated with the second context. The process then reaches a Stop block.” Col. 7:23-35.</p> <p>“As the user performs data operations in the first and second contexts, the system automatically creates and updates context data, as indicated at 210. This occurs transparently to the user, as indicated by the dashed line.” Col. 7:36-39.</p>

18. The examples in the Summary and Detailed Description shown above describe a three step process in which (1) a user creates data within a first context or workspace; (2) the user changes or moves from the first to a second context or workspace; and (3) the data that was created in the first context or workspace is, automatically and in response to the user’s movement, associated with the second context or workspace. This last step is succinctly summarized in the Summary: “As a user

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creates a context, or moves from one context to at least one other context, the data created and applications used previously by the user automatically follows the user to the next context. The change in user context is captured dynamically.” Col. 4:1-4. Claims 1, 9, 21 and 23 of the ’761 patent, which I understand to be the independent claims of the patent asserted by the plaintiff in this litigation, all incorporate this basic three-step process. Those claims read as follows:

1. A computer-implemented network-based system that facilitates management of data, comprising:

a computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user interaction of a user in a first context of the network-based system, the context component dynamically storing the context information in metadata associated with the user-defined data, the user-defined data and metadata stored on a storage component of the network-based system; and

a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically updating the stored metadata based on the change,

wherein the user accesses the data from the second context.

9. A computer-implemented method of managing data, comprising computer-executable acts of:

creating data within a user environment of a web-based computing platform via user interaction with the user environment by a user using an application, the data in the form of at least files and documents;

dynamically associating metadata with the data, the data and metadata stored on a storage component of the web-based computing platform, the metadata includes information related to the user, the data, the application, and the user environment;

tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform; and

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dynamically updating the stored metadata with an association of the data, the application, and the second user environment wherein the user employs at least one of the application and the data from the second environment.

21. A computer-readable medium for storing computer-executable instructions for a method of managing data, the method comprising:

creating data related to user interaction of a user within a user workspace of a web-based computing platform using an application;

dynamically associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace;

tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform;

dynamically associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace; and

indexing the data created in the user workspace such that a plurality of different users can access the data via the metadata from a corresponding plurality of different user workspaces.

23. A computer-implemented system that facilitates management of data, comprising:

a computer-implemented context component of a web-based server for defining a first user workspace of the web-based server, assigning one or more applications to the first user workspace, capturing context data associated with user interaction of a user while in the first user workspace, and for dynamically storing the context data as metadata on a storage component of the web-based server, which metadata is dynamically associated with data created in the first user workspace; and

a computer-implemented tracking component of the web-based server for tracking change information associated with a change in

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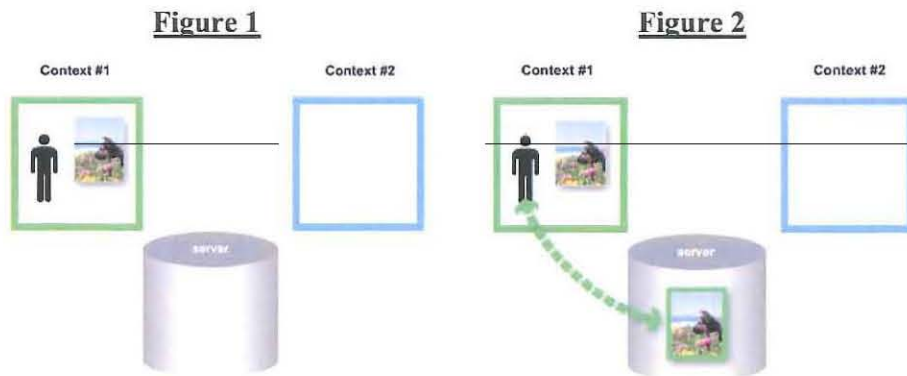
access of the user from the first user workspace to a second user workspace, and dynamically storing the change information on the storage component as part of the metadata,

wherein the user accesses the data from the second user workspace.

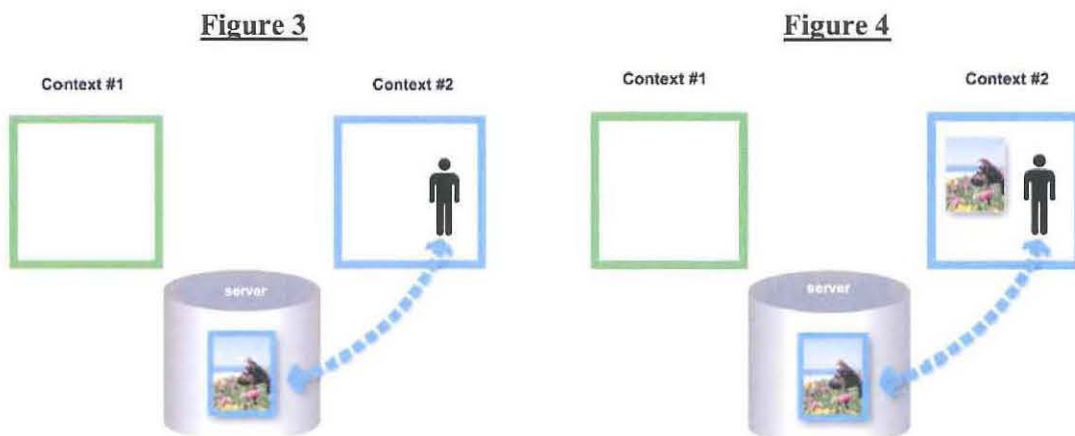
19. I understand that Facebook’s claim construction briefing in this litigation analogized the systems and methods claimed in the ’761 patent with a user who carries a “backpack” containing his or her data. I agree that this is an appropriate analogy to explain some basic concepts of the ’761 patent using a physical world analogy, as it captures the notion of a user’s data being linked or associated with that user, and that the user’s data automatically follows the user as he or she moves from one location to another. In the electronic world, one can further refine this analogy by envisioning a user who creates a photo file in a first context and then moves to a second context. An illustration is provided in Figures 1 through 4 below, which provide a graphical and sequenced representation of the basic steps in each asserted claim.

20. As shown in Figure 1 below, a user creates a graphical photograph file in a first context that is shown as a green box. (The context boxes are not necessarily intended to represent physical spaces, but rather, separate computing environments in which data can be created). The data is then stored on a server, as shown in Figure 2, and the green frame surrounding the photo signifies that the server has stored metadata associated with the user-defined data that identifies the context (green) in which the data was created. The green arrow connecting the user and the data represents the linkage between the user and his or her data that is captured by the metadata.

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21. The user can then move from the first context to a second context, i.e., from the green box to the blue box, as shown in Figure 3 below. The system tracks this movement and automatically updates the stored metadata solely in response to the movement, as shown by the blue frame that then surrounds the picture on the server as shown in Figure 3. The blue dashed line shows that the linkage between the user and his or her data has now changed to reflect the movement to the second context. Finally, in Figure 4, the user accesses the data from the second context:



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143. In light of Dr. Vigna’s failure to tie the claimed many-to-many functionality to the information in claim 23 that he identifies as the alleged “metadata,” he cannot show that the doctrine of equivalents applies here without ignoring express requirements of the claim. Removing the connection between the metadata and the claimed functionality results in a fundamental difference in the way claim 23 operates as compared to Facebook, and the results achieved. Nor does the addition of the claim element of claim 32 impact the prior art or hypothetical claim analysis, discussed in connection with claim 1, because the prior art systems clearly disclosed the claimed many-to-many functionality to the extent it could be construed to cover Facebook.



Michael Kearns, Ph.D
April 22, 2010

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to the within action. My business address is 3000 El Camino Real, Five Palo Alto Square, Palo Alto, CA 94306.

On April 22, 2010, I served the following document:

EXPERT REPORT OF MICHAEL KEARNS, PHD

on the interested parties in this action follows:

<u>BY E-MAIL:</u>	<u>BY E-MAIL:</u>
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[XX] **BY ELECTRONIC MAIL:** I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed above.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 22, 2010 at San Francisco, California.

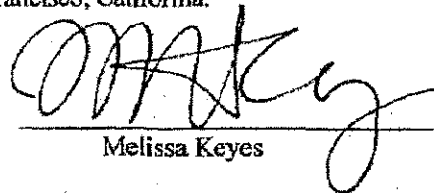

Melissa Keyes

EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LEADER TECHNOLOGIES, INC.,)	
a Delaware corporation,)	
	)	Civil Action No. 1:08-cv-08-862-JJF
Plaintiff,-Counterdefendant,)	
)	
v.	)	DISCLOSURE OF EXPERT
	)	TESTIMONY FOR GIOVANNI
FACEBOOK, INC.,	)	VIGNA, PH.D. PURSUANT TO
a Delaware corporation,	)	FED. R. CIV. P. 26(A)(2)
)	
Defendant-Counterclaimant)	
)	

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY - SOURCE CODE

Plaintiff Leader Technologies, Inc. (“Leader”) submits the following disclosure of expert testimony for Giovanni Vigna, Ph.D. pursuant to Federal Rules of Civil Procedure 26(a)(2). This expert is engaged in ongoing refinement of his opinions and expected testimony, and Leader specifically reserves the right to modify or supplement the information contained in this disclosure pursuant to the Federal Rules of Civil Procedure.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
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18. For the purposes of this report, I considered a person of skill in the art to be someone with a bachelor's degree or higher in computer science and/or several years of experience in the computer industry.

19. I understand that a product may infringe a claim directly or indirectly. Direct infringement requires a party to make, use, sell, or offer to sell a product that contains each and every element of a claimed system or performs all of the steps of a claimed method. When a party participates in or encourages infringement but does not directly infringe a patent, indirect infringement can be found. Indirect infringement requires, as a predicate, a finding that some party amongst the accused actors has directly infringed the patent.

20. I understand that claims may be either independent or dependent. A dependent claim is infringed if a product meets all of the recited claim elements of the independent claim that the dependent claim depends from, as well as the additional claim elements recited in the dependent claim.

GENERAL SUMMARY OF THE TECHNOLOGY OF THE '761 PATENT

21. The '761 Patent discloses an online collaboration tool. An online collaboration tool is a mechanism that allows users to participate in a shared "world," where their data and their actions are visible to other users, who might take actions based on the change in status of other users, the way data is accessed, or information about the users and their data. The tool disclosed in the '761 patent defines different contexts and workspaces where users can generate or consume content and perform actions. The system tracks the movement of users from one context or workspace to another and updates the information about their status, action, and access to data. The online collaboration tool disclosed in the '761 Patent is extremely effective at allowing users to share data with each other because, instead of simply allowing shared access to the data, it stores a variety of information in metadata relating to a user and the data he creates, including information relating to the user's content and actions. The information collected and stored in metadata allows content to be effectively shared among its users and allows users to keep track of others users who are also using the tool.

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GENERAL SUMMARY OF THE TECHNOLOGY OF THE FACEBOOK WEBSITE

22. The Facebook website is an online collaboration tool. It is also extremely effective at allowing users to share data with each other because it uses the same technology disclosed in the '761 Patent. Specifically, the Facebook website stores a variety of information in metadata relating to a user and the data he creates, including information relating to the user's content and actions. The information collected and stored in metadata by Facebook allows content to be effectively shared among its users and allows users to keep track of others users who are also using the tool.

FACEBOOK'S INFRINGEMENT OF THE '761 PATENT

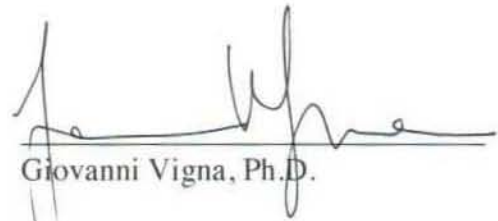
23. In my opinion, Facebook infringes Claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31 and 32 of the '761 Patent ("the asserted claims"). It is my opinion that Facebook literally infringes the asserted claims directly. At the very least, Facebook directly infringes the asserted claims under the doctrine of equivalence. In addition, it is my opinion that Facebook literally infringes the asserted method Claims 9, 11 and 16 indirectly. At the very least, Facebook indirectly infringes the asserted method Claims 9, 11 and 16 under the doctrine of equivalence.

24. Based on the material and deposition testimony, all of the Facebook servers are located in the United States and have been since at least November 21, 2006. Furthermore, all development and testing of the Facebook website is done in the United States and has been since at least November 21, 2006.

25. As described in detail below, the underlying architecture of the Facebook website infringes the asserted claims. For example, the vast majority of the Facebook applications dynamically captures context information and stores the information in metadata. Moreover, the vast majority of the user's actions while using the applications is also captured in metadata and used to generate stories on either the user's Wall, News Feed, or both. Thus, my description of the use cases below is not intended to be limiting, but rather an example of the multiple ways in which the Facebook website is based on an infringing architecture.

substantially the same way because the Facebook website provides many-to-many functionality through storing metadata about Wall posts, group membership or comments in a database which allows multiple users to share multiple pieces of data with each other. The Facebook website achieves substantially the same result because the Facebook website allows multiple users to share multiple pieces of data. For example, a user can share data via Wall posts, groups or comments, realizing the result of many-to-many interaction functionality.

I declare under penalty of perjury under the laws of the State of California and the United States that each of the above statements is true and correct. Executed on April 8, 2010 in Santa Barbara, California.



Giovanni Vigna, Ph.D.

CERTIFICATE OF SERVICE

I, Gladys Tong, hereby certify that on April 8, 2010, I served the foregoing on the following as noted:

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EXHIBIT F

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LEADER TECHNOLOGIES, INC.,)	
a Delaware corporation,)	
	)	Civil Action No. 1:08-cv-08-862-JJF
Plaintiff,-Counterdefendant,)	
)	
v.	)	DISCLOSURE OF EXPERT
	)	TESTIMONY FOR JAMES
FACEBOOK, INC.,	)	HERBSLEB, PH.D. PURSUANT
a Delaware corporation,	)	TO FED. R. CIV. P. 26(A)(2)
)	
Defendant-Counterclaimant)	

Plaintiff Leader Technologies, Inc. (“Leader”) submits the following disclosure of expert testimony for James Herbsleb, Ph.D. pursuant to Rule 26(a)(2) of the Fed. R. Civ. P. This expert is engaged in ongoing refinement of his opinions and expected testimony, and Leader specifically reserves the right to modify or supplement the information contained in this disclosure pursuant to the Federal Rules of Civil Procedure.

TRADITIONAL SYSTEMS

14. The '761 Patent describes several traditional systems for managing data. These systems were inefficient for large scale online collaboration because data was not shared in an efficient manner, and it lacked context surrounding online collaboration.

15. For example, many users organize their data in so called "folders," which mimic the operation of folders in the physical work. However, using hierarchical folders to store and organize data is highly inefficient. For example, if a file was associated with several different topics, in order to keep the folder in each topic, multiple locations would need to have the same file. As a result, the context of the file is completely dependent on which folder the user manually selects to put the file in. It is also difficult for other users to find data that the user organized into folders because the user's decisions about contexts of files are subjective.

ONLINE COLLABORATION TOOL OF THE '761 PATENT

16. The '761 Patent discloses an online collaboration tool that facilitates efficient communication, organization, and content sharing between users and allows multiple users to share and use electronically stored content over a network.

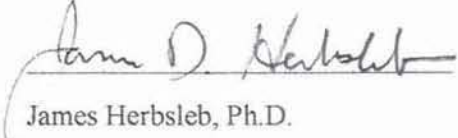
17. The online collaboration tool described in the '761 Patent addresses the problems with traditional systems. The technology of the '761 Patent uses a server that hosts the online collaboration tool and is connected through the internet to the user's computer, typically running a web browser. The '761 Patent describes a technology where the user can upload content over the Internet, through the web browser on the user's computer, to the online collaboration tool. The online collaboration tool of the '761 Patent automatically associates context information with the content. This is described as being performed by a context component residing on the server, which associates the content with context information, relating to the context in which this content was created. This context information is stored as metadata and associated with newly created content. In this manner it provides valuable context to the content. This information is then stored on the back-end server in a database or other data storage means.

18. The online collaboration tool described in the '761 Patent also automatically tracks user actions within different environments on the online collaboration tool using a tracking component. For example, the user may move from their home page to the home page of a friend or coworker. The tracking component tracks the user's movement and automatically captures the user's actions where the user accesses or employs their previously uploaded content from this new context. The metadata associated with the data is then updated based on how content is used in the new context and what actions are taken. The type of user actions the tracking component captures includes identification of the user who performed the action, the time the action was taken, and context in which the action was taken.

19. The online collaboration tool described in the '761 Patent thereby automatically captures information about user content and leverages this information to allow effective collaboration. For example, the user content can be efficiently shared and used by many people using the online collaboration tool. The information about the user content can be used to avoid requiring multiple versions of a file, allowing a file to be uploaded once and accessed from multiple locations, by multiple users, in multiple contexts. Furthermore, a user can provide content in one context and have that content associated with multiple other contexts. This allows the user to use the content in different contexts and not have to re-upload content in the other contexts. The information can also be leveraged to allow users to easily search for particular files based on the captured metadata.

20. The highest contextual assumption of the online collaboration tool is that there exists an entity of one or more users and that the data storage model assumes that the content is associated with the user. Thus, metadata is created when a user creates an account, and that metadata gets constantly updated based on the content the user uploads, or actions the user takes.

Dated: April 8, 2010.


James Herbsleb, Ph.D.

CERTIFICATE OF SERVICE

I, Gladys Tong, hereby certify that on April 8, 2010, I served the foregoing on the following as noted:

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EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC.,	)	Trial Volume 1
)	
Plaintiff,)	
	)	C.A. No. 08-862-JJF-LPS
v.)	
)	
FACEBOOK, INC., a Delaware corporation,)	
)	
Defendant.)	

July 19, 2010
9:00 a.m.

BEFORE: THE HONORABLE LEONARD P. STARK
United States District Court Magistrate

APPEARANCES:

POTTER, ANDERSON & CORKOON, LLP
BY: PHILIP A. ROVNER, ESQ.

-and-

KING & SPALDING, LLP
BY: PAUL ANDRE, ESQ.
BY: LISA KOBIALKA, ESQ.
BY: JAMES HANNAH, ESQ.

Counsel for Plaintiff

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(302) 658-6697 FAX (302) 658-8418

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1 know, any sort of device like that that is
 2 hooked up to the internet typically has some
 3 kind of a browser.
 4 Q. Now, what are we looking at at
 5 this level?
 6 A. Okay. So what I'm trying to show
 7 here is over on the left hand we have that same
 8 set of five workspaces.
 9 And we're trying to sort of drill
 10 down a little bit on Jim's workspace in the
 11 middle here. So this is what's on the server,
 12 and we're focusing on Jim's workspace.
 13 Over here on the right-hand side,
 14 this is what it looks like to Jim. This is what
 15 it looks like to the user when the user accesses
 16 this workspace. This is one way it could look.
 17 So this is Jim's kind of profile
 18 page. It has some tools that could be,
 19 obviously, many kinds of tools here, but this
 20 just shows, you know, the way that Jim could
 21 access messages.
 22 He could access his calendar. He
 23 could access notes that he's made. He could
 24 access files and upload files.

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1 And down here it shows Jim's
 2 contacts. As we saw before, they're Alice,
 3 Bob, Steve and Betty. And so this has that
 4 workspace, looks like, you know, when Jim's
 5 actually using it.
 6 This is what it shows, him on his
 7 computer.
 8 Q. And how is the data organized on
 9 it with the '761 patented technology?
 10 A. Okay. So I think the easiest way
 11 to show that is by contrasting it with what we
 12 saw over here.
 13 Of course, what we saw over here,
 14 the traditional hierarchial system where you
 15 have to name folders. Then you have to decide
 16 what folder each item goes into.
 17 And we have all these problems we
 18 talked about of, you know, different people
 19 having different sets of folders and being --
 20 how somebody else thinks about their stuff, so
 21 it's hard to find it.
 22 In contrast to that, over here the
 23 '761 technology organizes things very
 24 differently. Here when you create an account on

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1 server, it establishes for you metadata. So
 2 metadata is -- I know it's sort of a confusing
 3 sounding term, when the explanation is also
 4 confusion as well.
 5 Metadata is sort of data about
 6 data, if you will. But, it's really not that
 7 confusing if you think about uploading
 8 something, say a document, or a picture, for
 9 example.
 10 Okay. If I upload a picture, then
 11 that's data.
 12 And I might want to have some
 13 descriptions of that picture. All right.
 14 So I want -- I might want, for
 15 example, to store the fact that I was the one
 16 who uploaded that picture, not somebody else.
 17 And I might want to store the fact that it was
 18 uploaded at 10 o'clock Sunday morning, not some
 19 other time. And there might be other things
 20 that might be useful to store about that
 21 picture.
 22 So those kind of descriptions of
 23 the data are what we call metadata. And in the
 24 '761 technology when I upload something,

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1 automatically this sort of information about who
 2 uploaded it, when it was uploaded, that's what
 3 we call context information. And that updates
 4 the metadata that was established when I started
 5 my account.
 6 That's one of the ways that
 7 metadata gets updated. According to this
 8 technology, also, there's also a tracking
 9 component.
 10 So I can also move from my page to
 11 other people's pages. If I have a link to
 12 Alice, I might want to move over to Alice's
 13 page.
 14 And since my system kind of has to
 15 know where I am, so it kind of tracks my
 16 movements, I can also go over from my page to
 17 Alice's page and access my data from Alice's
 18 page. When I do that, this tracking information
 19 is then used also to update the metadata.
 20 Q. Can you walk through an example
 21 how one can share data using the on-line
 22 networking in collaboration invention of the
 23 '761 patent?
 24 A. Sure. Sure.

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1 All right. So here's sort of the
 2 starting point.
 3 Let's just say that I have kind of
 4 a manilla profile page. I haven't put much up
 5 there yet, so it just says profile page and has
 6 a few tools. And I'd like to upload a photo to
 7 it.
 8 So I might go down here to where
 9 it says file if that's the place that I upload
 10 files. I could click on that and select the
 11 option to upload a photo.
 12 And then it would let me sort of
 13 look around on my computer and find the photo I
 14 wanted to upload. When I found it, excuse me --
 15 when I found it, I would select it. Push a
 16 button that would probably say something like
 17 upload.
 18 And at that point, the picture
 19 would go from my computer. The data would be
 20 copied. Right.
 21 It would be data now on the server
 22 that would represent that picture. Okay. And
 23 it would be in my workspace.
 24 And so that would show up like

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1 this on my on-line workspace. But this is now
 2 really data on the server. This is the copy o
 3 the server as opposed to the one that's on my
 4 local machine. So that's the way I can upload a
 5 photo.
 6 Okay. And as I do that, the
 7 context information, as I mentioned concerning
 8 the picture updates, is used to update the
 9 metadata. So things like, you know, it was I
 10 who uploaded it, and maybe the size of the
 11 picture, and perhaps the time it was uploaded
 12 and other kinds of information are automatically
 13 added over here in the system and metadata is
 14 updated.
 15 So at this point, the picture that
 16 I'm observing and the metadata about that
 17 picture are all on the server.
 18 Q. What's this slide representing?
 19 A. This is another kind of
 20 interaction that I could have in this system.
 21 So here let's assume I am Jim, I might want to
 22 navigate over to Alice's workspace.
 23 So I click on the Alice link here
 24 and it takes me over to Alice's workspace, and

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1 now that I'm at Alice's workspace I might
 2 actually want to access some of my own data over
 3 there.
 4 So here is one reason I might want
 5 to do that. I might want to say leave a message
 6 for Alice, say hey, Alice, check out my new
 7 picture and I could place my picture accessing
 8 data from my workspace. I'm getting a little
 9 carried away, I'm afraid, accessing data from my
 10 workspace and placing it here on Alice's page.
 11 Now at this point, when I actually
 12 place data here, access data from my workspace
 13 while I'm in Alice's workspace, that triggers
 14 the change in metadata that this tracking
 15 information that I am accessing my data from a
 16 different work space, that information is used
 17 to update the metadata. And that's how that
 18 transaction happens.
 19 Q. And all this, the metadata itself
 20 and the context information and the tracking
 21 information, that's all stored on the back end,
 22 correct?
 23 A. That's all stored to the back end.
 24 That's all on the storage component of the

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1 system on this server or some set of servers.
 2 MR. ANDRE: That's all we have,
 3 Your Honor. Thank you.
 4 THE COURT: That's the end of the
 5 direct?
 6 MR. ANDRE: Yes.
 7 THE COURT: Okay. I think that
 8 will be a good place to stop for the day since
 9 we're letting the jury go at 4:30.
 10 Dr. Herbsleb, you can step down at this point.
 11 We'll excuse the jury at this
 12 point. One second, bear with me. There are a
 13 few things I need to tell the jury before I let
 14 you go.
 15 First off, we're starting at nine
 16 o'clock tomorrow morning, so please arrive at
 17 the building in time so that you can be up here
 18 in your seats at nine o'clock.
 19 Also, as I told you before, you're
 20 not to discuss the case with anybody, amongst
 21 yourselves or with anybody else at this point.
 22 I don't know if there will be any
 23 media coverage of this case, but if there is,
 24 you're not to read it or view it. Also, you're

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC.,	)	Trial Volume 2
)	
Plaintiff,)	
	)	C.A. No. 08-862-JJF-LPS
v.)	
)	
FACEBOOK, INC., a Delaware corporation,)	
)	
Defendant.)	

Tuesday, July 20, 2010
9:00 a.m.

BEFORE: THE HONORABLE LEONARD P. STARK
United States District Court Magistrate

APPEARANCES:

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BY: PHILIP A. ROVNER, ESQ.

-and-

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1 tracking a user as it moves around, and then
 2 generating tracking information as whenever
 3 certain actions happen, like writing on the
 4 wall, joining a group, uploading a photo to an
 5 album and so forth.
 6 Next, And you can see that this
 7 tracking information is also reflected had back
 8 in the original account because there is a news
 9 feed and a MiniFeed which is two ways which this
 10 information is presented to this user. In this
 11 particular case in my original file a note
 12 appears that John wrote on Mary Smith's wall. I
 13 think we're done.
 14 Q. Now, let me ask you some even more
 15 fundamental questions. How do you get to the
 16 Facebook website?
 17 A. How do you get there?
 18 Q. Yes.
 19 A. You open a browser and you type a
 20 URL in the browser, and you actually are sent to
 21 the website.
 22 Q. Do you know the website address?
 23 A. It's www.Facebook.com.
 24 Q. And how do you get to an account?

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1 A. Well, usually when you start
 2 interacting with the Facebook website, if you
 3 don't have an account, if you have never been on
 4 it, or maybe you have an account but you're not
 5 logged in, and therefore you will get a page
 6 that invites you to either join Facebook and
 7 create a new account or to log in with the
 8 account that you already created.
 9 MR. ANDRE: Your Honor, at this
 10 time I'd like to go set up a white board next to
 11 the witness. May I approach?
 12 THE COURT: Yes, you may approach.
 13 MR. ANDRE: Thank you. Is that
 14 okay?
 15 THE COURT: Yeah, as long as the
 16 jury can see it. And Ms. Keefe, if you need to
 17 move so you can get a better view, that's fine.
 18 MS. KEEFE: I'll have to move.
 19 Too many things in the way, Your Honor. Sorry.
 20 BY MR. ANDRE:
 21 Q. All right. Dr. Vigna, let's look
 22 at the claims of the '761 patent that's been
 23 asserted against Facebook.
 24 A. Yes. Okay.

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1 Q. First of all, is your
 2 understanding that in order for a product to
 3 infringe, it must meet all the elements of the
 4 claim?
 5 A. Yes.
 6 Q. Is also your understanding that
 7 you only look to the claims to determine
 8 infringement?
 9 A. Yes.
 10 Q. If you look at the Claim 1,
 11 element one, the context component; do you see
 12 that?
 13 A. Yes.
 14 Q. Can you put the screen up?
 15 Sorry. I realized that she was
 16 standing there. I thought she was going to sit
 17 back down.
 18 MS. KEEFE: I thought you were
 19 going to do something with it.
 20 THE COURT: I think if she -- if
 21 you believe she's going to need to stand, if
 22 you're going to direct us to the board, feel
 23 free to bring a chair over so that you can --
 24 you don't have to stand for the whole time.

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1 MS. KEEFE: Thank you, Your Honor
 2 BY MR. ANDRE:
 3 Q. Dr. Vigna, would you please
 4 briefly describe the elements of Claim 1?
 5 A. So the first element says that
 6 there is a computer-implemented context
 7 component of the network-based system for
 8 capturing context information associated with
 9 user-defined data created by user interaction of
 10 a user in a first context of the network-based
 11 system, the context component dynamically
 12 storing the context information in metadata
 13 associated with the user-defined data, the
 14 user-defined data and metadata stored on a
 15 storage component of the network-based system.
 16 Q. Could you give us a -- your
 17 understanding of what that claim element is
 18 referring to?
 19 A. So this claim element describes in
 20 very technical terms basic concept that there is
 21 a context component. Whenever a user wants to
 22 provide some data, it will capture that data,
 23 plus other data, some context information.
 24 Take both these things and store

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1 them in a storage using a storage component into
 2 metadata which is additional data about a
 3 certain data. Okay.
 4 So it is rather abstract. So it
 5 describes a generic component like that can be
 6 implemented in many different ways, but the gist
 7 of it is that there is some data of a user, for
 8 example, a personal picture and there is
 9 something else that is captured of that
 10 particular environment, which that data is
 11 entered and this information is stored as
 12 metadata on a storage component.
 13 Q. Now, I'd like to show you the
 14 court order for the claim interpretation in this
 15 case. I want to direct your attention to the
 16 term component.
 17 Do you see that?
 18 A. Yes.
 19 Q. Do you recognize this as the order
 20 from the Court interpreting the claims?
 21 A. Yes.
 22 Q. And could you read what the term
 23 component means?
 24 A. So in this document, it say the

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1 term component means a computer-related entity,
 2 either hardware, a combination of hardware and
 3 software, software, or software in execution.
 4 Q. Now, what does that mean to
 5 computer scientists?
 6 A. Well, in this particular case, I
 7 would say --
 8 THE COURT: Hold on. There's an
 9 objection.
 10 MS. KEEFE: Objection. Your
 11 Honor, that's the definition, not what it means
 12 to him. It's what it means to the Court and the
 13 Court's construed it that way.
 14 MR. ANDRE: I'll rephrase it that
 15 way, Your Honor.
 16 THE COURT: Sustained. Sustain
 17 the question.
 18 MR. ANDRE: I will.
 19 BY MR. ANDRE:
 20 Q. When you're talking about
 21 hardware, what's that referring to?
 22 A. Well, it's referring to any kind
 23 of equipment, group of equipment, it could be
 24 one CPU. It could be a CPU on a disk.

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1 It could be an array of disks. It
 2 could be a network system like a distributed
 3 system. It could be even spread across the
 4 nation.
 5 That would be hardware. It's --
 6 it's a composition of hardware elements.
 7 Q. And when you see one skilled in
 8 the art when they see that the word in
 9 combination of hardware and software, what would
 10 that mean to you?
 11 MS. KEEFE: Same objection, Your
 12 Honor. I mean --
 13 THE COURT: We will see counsel at
 14 side-bar.
 15 MS. KEEFE: Your Honor, it's the
 16 Court's claim construction. The Court's claim
 17 construction is what it is.
 18 And it seems like we're trying to
 19 reargue claim construction by redefining what
 20 the construction is.
 21 THE COURT: Mr. Andre?
 22 MR. ANDRE: Your Honor, the claim
 23 construction is determined based on one skilled
 24 in the art. Words in construction have special

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1 meaning to those skilled in the art. I'm just
 2 asking what those words are and what they mean.
 3 THE COURT: I think in this case,
 4 the jury needs some translation into English
 5 essentially to understand the concepts. And
 6 that's my understanding of what these questions
 7 are seeking to elicit, not reconstruing claims.
 8 But just trying to help the jury understand what
 9 it is that the Court's construction says.
 10 MS. KEEFE: I think he's going a
 11 little bit far, Your Honor. We are talking
 12 about words that are supposed to have plain
 13 meaning. This is the definition they propose.
 14 It comes from the patent.
 15 THE COURT: I'm overruling the
 16 objection.
 17 (Conclusion of conference held at
 18 side-bar.)
 19 BY MR. ANDRE:
 20 Q. Dr. Vigna, go back to my previous
 21 question. What does it mean when there's a
 22 combination of hardware and software?
 23 A. Well, usually a combination of
 24 hardware and software is a system that is

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC.,	)	Trial Volume 3
)	
Plaintiff,)	
	)	C.A. No. 08-862-JJF-LPS
v.)	
)	
FACEBOOK, INC., a Delaware corporation,)	
)	
Defendant.)	

July 21, 2010
9:00 a.m.

BEFORE: THE HONORABLE LEONARD P. STARK
United States District Court Magistrate

APPEARANCES:

POTTER, ANDERSON & CORROON, LLP
BY: PHILIP A. ROVNER, ESQ.

-and-

KING & SPALDING
BY: PAUL ANDRE, ESQ.
BY: LISA KOBIALKA, ESQ.
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Counsel for Plaintiff
Hawkins Reporting Service
715 North King Street - Wilmington, Delaware 19801
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1 THE WITNESS: If you go down,
 2 next. Next. Next. Again. Again. Okay. You
 3 can see here on the left-hand side that there is
 4 a clear depiction of how the website can be
 5 accessed through your mobile phone which would
 6 be wireless portable device.
 7 Q. And that's on PTX 942 on the Bates
 8 number LTI 157087; correct?
 9 A. Yes.
 10 Q. Let me try with the right exhibit
 11 number this time. Can you turn to PTX-277.
 12 A. I'm just trying to be helpful.
 13 Q. That's a good one, too. I
 14 appreciate that. This is what I was looking
 15 for.
 16 A. Yes.
 17 Q. Have you seen this document?
 18 A. Yes.
 19 Q. And did it inform your opinion as
 20 to Claim 16?
 21 A. Yeah.
 22 Q. And how did it do so?
 23 A. This is a document that describe
 24 the Facebook mobile client that allows to

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1 interact with Facebook through network mobile
 2 device, like a cell phone, for example.
 3 Q. When it talks about the mobile
 4 client provides automatic photo upload from
 5 mobile devices.
 6 A. Correct.
 7 Q. Does that inform your opinion at
 8 all?
 9 A. Yeah. I mean, this is just
 10 facilitating the access through the
 11 functionality of the website by means of cell
 12 phone or wireless portable device.
 13 Q. And based on the documents that
 14 you have shown us here today and the previous
 15 testimony that you have given, do you have an
 16 opinion as to whether or not Facebook infringes
 17 Claim 16 of the '761 patent?
 18 A. Yes, I think Facebook infringes
 19 that claim.
 20 Q. Would you put a check in that box?
 21 A. (Witness complying.)
 22 MR. ANDRE: Your Honor, may I
 23 approach?
 24 THE COURT: You may.

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1 MR. ANDRE: Your Honor, I would
 2 like to move Exhibit 277 into evidence as well.
 3 MS. KEEFE: No objection, Your
 4 Honor.
 5 THE COURT: It's admitted.
 6 BY MR. ANDRE:
 7 Q. Dr. Vigna, I would like to turn
 8 your attention to Claim 21. What type of claim
 9 is Claim 21?
 10 A. So this is a claim that describes
 11 a computer-readable medium for storing
 12 computer-executable instructions for a method of
 13 managing data and then describes the
 14 characteristics of the methods.
 15 Q. What exactly is computer-readable
 16 media?
 17 A. So, anything that can store
 18 information that you can retrieve and that can
 19 be used as part of a computer system. An
 20 example would be a computer disk, it could be
 21 the memory, it could be -- that's pretty much
 22 it. That's what we have. I was thinking about
 23 new technology, and not yet.
 24 Q. And in Facebook's case, where is

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1 the computer-readable media located?
 2 A. On the servers that execute the
 3 code, for example, the computer-readable
 4 instructions are somewhere, so whenever a
 5 request is made that code is retrieved and it's
 6 executed.
 7 Q. And where are Facebook's servers
 8 located?
 9 A. According to what I could read
 10 from the testimony, on a number of servers in
 11 the United States.
 12 Q. And what type of code are on those
 13 servers that Facebook has in California and the
 14 East Coast?
 15 A. I think that there are several
 16 kinds of code. By and large, Facebook is
 17 written PHD, which is this code that I have been
 18 showing you. Of course there is also Sequel
 19 code. There are also other pieces of the system
 20 that are implemented in different programming
 21 language. I mean, a complex system often times
 22 is implemented in different ways with different
 23 subcomponents implemented using different
 24 technologies for a number of reasons; could be

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<p>1 movement of users from between workspaces.</p> <p>2 Q. At the very least, does the</p> <p>3 Facebook website perform substantially the same</p> <p>4 function as Element 4 of Claim 21?</p> <p>5 A. Yes, because it dynamically</p> <p>6 associates data and application in the metadata.</p> <p>7 Q. At the very least, does the</p> <p>8 Facebook website perform substantially the same</p> <p>9 function as Element 5 of Claim 21?</p> <p>10 A. Yes, because it provides indexing</p> <p>11 capability, so that that data can be accessed by</p> <p>12 multiple environments.</p> <p>13 Q. Going back up to the first</p> <p>14 element, at least -- at the very least, does the</p> <p>15 Facebook website perform substantially the same</p> <p>16 way as Element 1 of Claim 21?</p> <p>17 A. Yeah, because it creates data</p> <p>18 through user interactions as it says.</p> <p>19 Q. At the very least, does the</p> <p>20 Facebook website perform in substantially the</p> <p>21 same way as Element 2 of Claim 21?</p> <p>22 A. Yeah, because it dynamically</p> <p>23 associates the metadata the same way.</p> <p>24 Q. At the very least, does the</p>	<p>1 Element 2 of Claim 21?</p> <p>2 A. Yeah, because it dynamically</p> <p>3 associates metadata with the data.</p> <p>4 Q. At the very least, does the</p> <p>5 Facebook website yield the same results as</p> <p>6 Element 3 of Claim 21?</p> <p>7 A. Yeah, because the user is tracked</p> <p>8 from one environment to another, from a</p> <p>9 workspace to another, I should say.</p> <p>10 Q. At the very least does the</p> <p>11 Facebook website yield the same results of</p> <p>12 element four of Claim 21?</p> <p>13 A. Yeah. Because it results in</p> <p>14 ascertaining the data in the application with</p> <p>15 the second user workspace.</p> <p>16 Q. At the very least does the</p> <p>17 Facebook website yield the same results of</p> <p>18 element five of the Claim 21?</p> <p>19 A. Yes. Because it results in</p> <p>20 creating the same data to allow access to</p> <p>21 information.</p> <p>22 Q. At the very least, when we are</p> <p>23 talking about the Doctrine of Equivalents, at</p> <p>24 the very least, does the Facebook website</p>
Page 739	Page 741
<p>1 Facebook website perform in substantially the</p> <p>2 same way as Element 3 of Claim 21?</p> <p>3 A. Yeah, because it tracks the user</p> <p>4 from one workspace to another.</p> <p>5 Q. At the very least, does the</p> <p>6 Facebook website perform in substantially the</p> <p>7 same way as Element 4 of Claim 21?</p> <p>8 A. Yeah, because it dynamically</p> <p>9 associates the data and the application in the</p> <p>10 workspace in the metadata.</p> <p>11 Q. At the very least, does the</p> <p>12 Facebook website perform in substantially the</p> <p>13 same way as Element 5 of Claim 21?</p> <p>14 A. Yeah, because it indexes the data.</p> <p>15 That's a lot of results.</p> <p>16 Q. At the very least, does the</p> <p>17 Facebook websites yield the same results as</p> <p>18 Element 1 of Claim 21?</p> <p>19 A. Yes, because data gets created.</p> <p>20 Q. Are you talking about the data of</p> <p>21 Element 1?</p> <p>22 A. Yeah. Yeah.</p> <p>23 Q. At the very least, does the</p> <p>24 Facebook website yield the same results of</p>	<p>1 infringe under the Doctrine of Equivalents for</p> <p>2 all the reasons you testified to earlier today</p> <p>3 regarding Claim 21?</p> <p>4 A. Yes.</p> <p>5 Q. Would that hold true also for</p> <p>6 Claim 1 and Claim 9 as well?</p> <p>7 A. Yes.</p> <p>8 Q. All right. Now let's turn to the</p> <p>9 last independent claim, Claim 23. Dr. Vigna,</p> <p>10 what kind of a claim is Claim 23?</p> <p>11 A. It describes a system,</p> <p>12 computer-implemented system that facilitates the</p> <p>13 management of data.</p> <p>14 Q. How many elements does this claim</p> <p>15 have?</p> <p>16 A. There are two elements of the</p> <p>17 claim.</p> <p>18 Q. Let's talk about the first</p> <p>19 element, the context component element.</p> <p>20 A. Yeah. I could read it, but mainly</p> <p>21 in laymen's term, there is a context component</p> <p>22 that creates workspace where there are one or</p> <p>23 more application and when these applications are</p> <p>24 used, the context data is associated with the</p>

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1 data uploaded by the user and it's dynamically
 2 stored, this additional context information, as
 3 metadata on a storage component. And the
 4 dynamic -- the metadata is dynamically
 5 associated with the data created in the first
 6 user workspace.
 7 Q. Can you turn back to PTX 942.
 8 This is the screen captures of the presentation
 9 you have been giving; correct?
 10 A. Correct.
 11 Q. Could you show us in I guess the
 12 third use case how Claim 23 is implicated in
 13 these slides?
 14 A. So, you have to go a little
 15 forward because I think -- I don't remember
 16 exactly where the group interaction starts. But
 17 forward, forward, forward, this is writing on
 18 the wall, becoming friends, writing on the wall.
 19 Okay. The first part of this is actually
 20 creating a group. So Mary Smith creates a
 21 group. And next, fills in all the information
 22 about the group that she's going to create.
 23 Q. Is that the group name right here?
 24 A. Italian Food Lovers, yeah, that's

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1 correct. Next. This is things that one can do
 2 about the group. You can go ahead. At this
 3 point Mary Smith actually invites John Vineyard
 4 to participate in the group. Next. And this is
 5 the page of the group itself. And it shows it
 6 has one member. If you go forward.
 7 Here is the home page of John
 8 Vineyard that decides to go to the group's
 9 application that you can see on the left-hand
 10 side, and decides to join the Italian Food
 11 Lovers group. Go ahead.
 12 At this point if you go forward,
 13 you will see that now in the group there are two
 14 people involved in the members, John Vineyard
 15 and Mary Smith. And if you go forward, in this
 16 particular case, you know, John Vineyard is
 17 actually posting a comment on the wall of the
 18 group.
 19 Q. Is this the posting right here?
 20 A. Yeah, that's correct.
 21 Go forward. Go a little forward.
 22 And at this point, go a little forward. There
 23 will be some photos that are updated, first to
 24 the user itself. So go ahead. And this is a

Page 744

1 group, a personal album called My Recipes that
 2 is created by the user. It's a quite lengthy
 3 task. But it would be clearer later.
 4 Go ahead. For example, here, I
 5 choose to upload a picture of lasagna. And as a
 6 result of this, of interacting with this, I
 7 uploaded a picture.
 8 Go next.
 9 And show now there is my recipes
 10 is an album with a photo uploaded by me,
 11 Q. At this point you have a photo of
 12 lasagna in your own personal photo album as John
 13 Vineyard?
 14 A. That's correct. Go forward. This
 15 shows that I uploaded a photo and it's been
 16 tracked, create an event. Not relevant at this
 17 point. But let's go forward.
 18 At this point I get to the group
 19 and I click on the group. Next. Okay. Go
 20 next. I mean, click on photos of the group.
 21 And you can see that there are no photos there
 22 for the group. And I decide to add a photo to
 23 the group. So I click on add group photo. And
 24 I choose one of my albums, the recipes. And I

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1 add the selected photo to the group.
 2 Q. How does that -- let me just give
 3 the Bates number for the record of where you
 4 started from. It was approximately --
 5 A. No, go forward. Let me just
 6 finish that and then I can comment on a more
 7 high level. If you go next. These are photo,
 8 if you go next. I commented on the photo saying
 9 this is what I cooked the night before. People
 10 can comment more. But go next. And this shows,
 11 for example, a news feed that this action has
 12 been tracked and has been generating a news in
 13 my personal news feed.
 14 Now, the main idea here, if you go
 15 back to the claim for a second. So there is a
 16 first -- the idea here is that there was a first
 17 user workspace, in this case it's my personal
 18 album and the way I interact with it. And in
 19 this case, the upload application is what allows
 20 me to insert the data into the first album.
 21 And as we seen before, there is
 22 the capturing of context data with the user
 23 interaction. For example, the context data is
 24 when I uploaded this picture on what album and

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES,) Trial Volume 4
INC.,)
)
Plaintiff,)
) C.A. No. 08-862-JJF-LPS
v.)
)
FACEBOOK, INC., a)
Delaware corporation,)
)
Defendant.)

July 22, 2010
9:00 a.m.

BEFORE: THE HONORABLE LEONARD P. STARK
United States District Court Magistrate

APPEARANCES:

POTTER, ANDERSON & CORROON, LLP
BY: PHILIP A. ROVNER, ESQ.

-and-

KING & SPALDING
BY: PAUL ANDRE, ESQ.
BY: LISA KOBIALKA, ESQ.
BY: JAMES HANNAH, ESQ.

Counsel for Plaintiff

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715 North King Street - Wilmington, Delaware 19801
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Page 990

1 '761 patent. When you read it the first time
 2 and perhaps the second and third time as part of
 3 your effort to comprehend what it covered, what
 4 was your initial impression of that patent?
 5 A. Well, my initial reaction is one
 6 of confusion. I found the patent quite
 7 confusing, the language in it.
 8 I found a lot of the language very
 9 vague. I felt like there were, you know, many
 10 terms that were not well defined, and seemed
 11 very similar and were sort of used in a very
 12 loose way.
 13 So, you know, there's things like
 14 webs, and boards, and contexts and environments.
 15 And these are sort of all used interchangeably.
 16 So it took awhile for me to try to
 17 figure out what the patent was trying to
 18 propose, but that was my first reaction.
 19 Q. So in light of that first
 20 reaction, would I be presumptuous to ask you if
 21 you then spent more time studying the patent to
 22 try to really grasp what problem the inventors
 23 thought they were trying to solve?
 24 A. Yeah. So I spent quite a bit of

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1 time working on that and trying to come to some
 2 understanding of it.
 3 I think it helped when I went to
 4 the claims themselves, you know, which are sort
 5 of what matters most, and sort of read them
 6 carefully, and realized that, you know, at the
 7 end of all this, something rather specific and
 8 narrow and precise is described in the patent.
 9 Even in other places, the high-level
 10 descriptions were a bit confusing to me
 11 initially.
 12 Q. Do you have an understanding as to
 13 what the problem was that the invention of the
 14 '761 patent was trying to solve?
 15 MR. ANDRE: Objection, Your Honor.
 16 Outside the scope of this expert's report. He's
 17 an infringement expert.
 18 THE COURT: Okay. Well, the
 19 objection is noted, but overruled subject to the
 20 protocol we've discussed.
 21 You may go ahead, Mr. Rhodes.
 22 BY MR. RHODES:
 23 Q. Let me take a step back. You were
 24 asked to render an opinion on whether or not the

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1 patent infringed; is that right?
 2 A. That's correct.
 3 Q. Yeah. And my question is simply:
 4 When you read the patent, were you able to, in
 5 your own mind, determine what problem you
 6 thought the patent was trying to solve?
 7 A. Yeah, I mean --
 8 MR. ANDRE: Same objection.
 9 THE COURT: Okay. There's no need
 10 to keep noting the objection. The objection
 11 with respect to the protocol we have discussed
 12 is noted as a standing objection.
 13 MR. ANDRE: Thank you.
 14 THE COURT: Okay. You may
 15 proceed, if you have recall the question.
 16 BY MR. RHODES:
 17 Q. Do you have the question?
 18 A. I think -- I think I understand
 19 the gist of the question. I mean, the patent
 20 itself is really rather forthcoming very early
 21 on in describing the problem or the situation
 22 that it seems to think needs addressing.
 23 Q. And what is that?
 24 A. So, you know, the language of the

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1 patent very much feels as if it's addressing
 2 sort of corporate enterprise workflow
 3 environments where the management and tracking
 4 of information is extremely important.
 5 So in the very first couple of
 6 pages the patent the laments the fact that, you
 7 know, in the modern era in large organizations,
 8 people are creating documents, emails, contents,
 9 presentations, and there is all sorts of
 10 pointers to them in all kinds of places, all
 11 kinds of places that are referencing those
 12 documents. And it's hard to sort of keep track
 13 of all this activity. It's hard to sort of keep
 14 track of the context in which a document was
 15 created, sort of what the workflow was if you
 16 like in sort of getting the document from its
 17 initial creation to some later point.
 18 And it sort of laments the fact
 19 that all of this information that sort of is
 20 about the document or should be stored with the
 21 document is scattered in a kazillion different
 22 places that nobody can find and that's sort of
 23 the patent starts by discussing very clearly
 24 that pain, if you like, and then goes on to

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES,) Trial Volume 5
INC.,)
)
Plaintiff,)
) C.A. No. 08-862-JJF-LPS
v.)
)
FACEBOOK, INC., a)
Delaware corporation,)
)
Defendant.)

Friday, July 23, 2010
9:00 a.m.

BEFORE: THE HONORABLE LEONARD P. STARK
United States District Court Magistrate

APPEARANCES:

POTTER, ANDERSON & CORROON, LLP
BY: PHILIP A. ROVNER, ESQ.

-and-

KING & SPALDING
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Page 1403	Page 1405
<p>1 disclose every element of the asserted claims of 2 the 761 patent.</p>	<p>1 So what materials you used and what documents 2 you relied on in coming up with your opinion.</p>
<p>3 Q. And did you come to an opinion 4 regarding your second task, whether or not the 5 patent was valid?</p>	<p>3 A. Sure. Should I start with the 4 provisional?</p>
<p>6 A. Yes, I did.</p>	<p>5 Q. Let's start with the provisional.</p>
<p>7 Q. What was that?</p>	<p>6 What documents did you use in order to come to</p>
<p>8 A. As you can see here, I compared 9 each asserted claim of the 761 patent to a 10 variety of references, and for the first three 11 there, we see U.S. patent 6236994. I'll call 12 this Swartz from now on. Swartz is the inventor 13 assigned to.</p>	<p>7 your opinion that the provisional did not 8 disclose all of the elements of the final 9 patent?</p>
<p>14 Everything in the asserted claims 15 was in Swartz, and the iManage 6.0 reference 16 manual, and I again found all the ideas in the 17 asserted claims in each and every element of the 18 asserted claims in the iManage system.</p>	<p>10 A. For the provisional, I looked only 11 at the provisional, and I compared all the 12 material, and I compared that extensively with 13 what was in the asserted claims of the 7612 14 patent. I would look at, for example, claim 15 one, each one of the elements, and I would 16 search through the provisional application to 17 see if that idea was there.</p>
<p>19 And I also looked at the European 20 patent application, EP 10873067 AT, which I'll 21 call Hubert, and I found each and every element 22 of the asserted claims in the Hubert patent were 23 in the 761 patent -- I should correct myself. 24 For Swartz and Hubert. That's each and every</p>	<p>18 Q. And in order to understand what 19 the claims of the issued patent covered, how did 20 you do that? Did you have any documents that 21 educated you as to what the language of the 22 claims meant?</p>
<p>Page 1404</p>	<p>Page 1406</p>
<p>1 asserted claim except for sixteen.</p>	<p>1 that definition when they were there.</p>
<p>2 If you look at these patents in 3 combination with another patent called Ausems, 4 then claim sixteen, the idea is also there.</p>	<p>2 If the Court did not construe or 3 define any terms, I went to the patent itself to 4 see if they provided a definition.</p>
<p>5 Q. If I understand you correctly, 6 you're saying that all of the claims would be 7 invalidated by -- every claim except sixteen 8 would be invalidated by Swartz or iManage or 9 Hubert by themselves; is that correct?</p>	<p>5 If they did not provide a 6 definition, I used the definition that would be 7 known to one skilled in the art. 8 These slides are bit of evidence 9 back up.</p>
<p>10 A. It's almost correct, except for 11 sixteen by Swartz or Hubert alone. iManage does 12 disclose claim sixteen.</p>	<p>10 Q. I think you were saying if there 11 wasn't a definition provided by the Court, you 12 used the patent itself to find the definition or 13 you used what one of ordinary skill in the art 14 would use.</p>
<p>13 Q. And then for claim sixteen, would 14 claim sixteen be invalid as well?</p>	<p>15 A. That's correct.</p>
<p>15 A. Well, I believe claim sixteen, if 16 you look at what's in the claim, it would really 17 be obvious to one skilled in the art to a 18 practitioner of the day.</p>	<p>16 Q. What is one of ordinary skill in 17 the art in computer science in this case?</p>
<p>19 Aside from that, it would be 20 obvious in you combine the Ausems patent with 21 any one of the other patents.</p>	<p>18 A. One of ordinary skill in the art, 19 as I believe, is somebody with a bachelor of 20 science in computing science or computer 21 engineering or equivalent and a couple years of 22 experience.</p>
<p>22 Q. We'll go into those with detail.</p>	<p>22 I kind of know what students can</p>
<p>23 Before we do that, I'd like to 24 learn about how you went about your analysis.</p>	<p>23 do as soon as they graduate, and you need a</p>

Page 1579	Page 1581
1 ask.	1 A. That's what it looks like.
2 A. Yeah.	2 Q. And because the Patent Office on
3 Q. So your interpretation is wherein	3 the claim wanted the claims written this way,
4 means as a consequence, you can do this?	4 wouldn't a reasonable interpretation be that the
5 A. Yes.	5 dynamically updating happens in which user
6 Q. It doesn't mean in which or during	6 accesses data from the second context?
7 which; correct?	7 MS. KEEFE: Objection.
8 A. It means -- well, let me see this.	8 THE COURT: Hold on.
9 Well, so when I say it has a consequence, it	9 MS. KEEFE: Objection, Your Honor.
10 could be during or after, right, it says	10 Goes to issues we discussed before.
11 wherein. So --	11 THE COURT: Sustained.
12 Q. I want to make sure I get your	12 BY MR. ANDRE:
13 understanding. Now, you have looked at the	13 Q. If you go to the last page of the
14 prosecution history in this case; correct?	14 examiner's amendment, you see Page 683?
15 A. Yes, I have.	15 A. Mm-hmm.
16 Q. Okay.	16 Q. And you see the examiner's name
17 A. It's been quite awhile now.	17 here?
18 Q. Okay. And if you go to PTX 2, and	18 A. I do.
19 you go to Bates Number 668. Dr. Greenberg, this	19 Q. Diane Mizrahi?
20 is the Notice of Allowance of the '761 patent;	20 A. Yes.
21 correct?	21 Q. Go to PTX 1 and go up here to this
22 A. It looks like it.	22 column here.
23 Q. If you go to the next page, you'll	23 Now, Ms. Mizrahi cited certain
24 see that the examiner of the '761 patent put in	24 exhibits here, certain references against the
Page 1580	Page 1582
1 an amendment. Do you see that?	1 '761 patent; correct?
2 A. I see it.	2 A. That's correct.
3 Q. Okay. Basically saying that	3 Q. And you saw the fact that like the
4 changes and additions being unacceptable, the	4 Swartz reference was not listed there; right?
5 applicant can appeal whatever. But this is the	5 A. That's correct.
6 basis for allowance; correct?	6 Q. Now, the implication from you
7 A. I'm not sure what you mean.	7 pointing that out is that Ms. Mizrahi or Mizrahi
8 Q. Well, that's okay. It may be more	8 -- I'm probably butchering her name here -- she
9 of a legal question.	9 was not aware of Swartz here and didn't put it
10 A. Yeah.	10 here; right? That is the implication?
11 Q. Any way the examiner is going to	11 MS. KEEFE: Objection?
12 amend the claims correct?	12 THE WITNESS: Well, what I said --
13 A. Okay.	13 THE COURT: Hold on.
14 Q. All right. So go to the next	14 MS. KEEFE: Objection, Your Honor.
15 page.	15 THE COURT: Sustained.
16 And the examiner here put in	16 BY MR. ANDRE:
17 language that talks about dynamically updating	17 Q. You're aware, of course, that the
18 the stored metadata wherein the user accesses	18 examiner was aware of the Swartz patent;
19 the data from the second context; correct?	19 correct?
20 A. I see that. Yes.	20 MS. KEEFE: Objection, Your Honor.
21 Q. And the examiner got rid of the	21 THE COURT: Sustained. Move on,
22 term and automatically updating the stored	22 if you have something else you can do in two
23 metadata. Based on the change, just by itself,	23 minutes.
24 she put those two elements in; correct?	24 BY MR. ANDRE:

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1 and reduction to practice. They're all centered
 2 around similar disputes about how to get the
 3 right language in, and part of this goes to
 4 whether or not the provisional discloses enough
 5 of the invention so we get that priority date.
 6 THE COURT: I think I understand
 7 those issues.
 8 MS. KOBIALKA: Okay. So then we
 9 should have put chapters in this thing.
 10 Then the next dispute was 4.5 that
 11 I was going to address. They have inherency
 12 instruction that they would like. This is on
 13 page 128.
 14 Inherency has not been an issue
 15 that any expert has opined on. We kept going
 16 back and forth. Why are we giving an
 17 instruction on inherency if there isn't any
 18 evidence to it? So they didn't want to strike
 19 it. That is the core of that dispute.
 20 THE COURT: Just being mindful of
 21 the time, I'm going direct you to one issue that
 22 would be helpful to me and then let's move to
 23 Mr. Andre, to his issue.
 24 And level of ordinary skill and

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1 whether I need an instruction directing the jury
 2 as a functional matter that they're supposed to
 3 determine that. What is your position?
 4 MS. KOBIALKA: That there does
 5 need to be an instruction, and the jury makes
 6 that determination, what constitutes one of
 7 ordinary skill in the art.
 8 THE COURT: Facebook is of the
 9 view that the Court has determined what a person
 10 of ordinary skill in the art is. Do you have an
 11 idea what that is?
 12 MS. KOBIALKA: I think they're of
 13 the view that you're supposed to decide that and
 14 tell the jury what that is. I know there were
 15 issues about on-sale bar and public use. There
 16 were elements missing. Mr. Rovner was going to
 17 address that. I don't want to shortchange him
 18 on that. He's been preparing.
 19 THE COURT: Mr. Rovner. Is he
 20 here?
 21 MR. ANDRE: He stepped back, Your
 22 Honor.
 23 THE COURT: We'll come back to him
 24 if I need to.

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1 Let's hear from Mr. Andre, and
 2 then I want to give Facebook some time.
 3 MR. ANDRE: Your Honor, on the
 4 contributory infringement, it's a pretty
 5 standard instruction. I don't see anything
 6 extraordinary about the points, puts out the
 7 elements as set forth, looks like Facebook wants
 8 to insert the statute into the instruction to
 9 some degree, and I don't think that's necessary
 10 or appropriate at this point.
 11 I don't see the big issue here
 12 because the Thrasher case has come out and
 13 determined that any type of contributory
 14 infringement to the patent requires a product in
 15 the stream of commerce, and then you have three
 16 elements set for most part.
 17 THE COURT: Let me turn it over to
 18 Facebook at this point. Feel free to address
 19 any of the issues that have been raised or
 20 others if you think there are others that are
 21 important, and basically we have up to
 22 twenty minutes because I do want to leave the
 23 last five minutes to hear from Leader.
 24 MR. WEINSTEIN: There's only two

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1 issues to address. The most critical ones on
 2 jury instruction, 3,4.
 3 Your Honor, I'd like to hand up a
 4 portion of some of the transcript from the trial
 5 to illustrate why we need an instruction that
 6 "wherein" does not mean when.
 7 THE COURT: You've already cited
 8 pretty extensively in your support, which we
 9 looked at, so in the spirit of compromise,
 10 construing at this late moment the term
 11 "wherein" to mean in which, which has been
 12 agreed to by Leader, is not satisfactory to you?
 13 MR. WEINSTEIN: It isn't, Your
 14 Honor. The problem with in which, Your Honor,
 15 they're going to make the exact, same argument
 16 what I heard today, is they think this is a
 17 factual issue to go to the jury.
 18 When I read the '02 Micro case
 19 last night, I was haunted how similar that case
 20 is to this. There was a claim term only if like
 21 there. This case, they presented witnesses and
 22 cross-examined witnesses on what do you think
 23 this term means.
 24 What ultimately came down and the

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC.,)	Trial Day 6
)	
Plaintiff,)	
	)	C.A. No. 08-862-JJF-LPS
v.)	
)	
FACEBOOK, INC., a Delaware corporation,)	
)	
Defendant.)	

Monday, July 26, 2010
9:00 a.m.

BEFORE: THE HONORABLE LEONARD F. STARK
United States District Court Magistrate

APPEARANCES:

POTTER, ANDERSON & CORROON, LLP
BY: PHILIP A. ROVNER, ESQ.

-and-

KING & SPALDING
BY: PAUL ANDRE, ESQ.
BY: LISA KOBIALKA, ESQ.
BY: JAMES HANNAH, ESQ.

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<p>1 A. Okay. Good.</p> <p>2 Q. Could you just generally and</p> <p>3 briefly describe what your understanding of what</p> <p>4 Claim 1 covers?</p> <p>5 A. All right. So what you called the</p> <p>6 context component, we have to go back to the</p> <p>7 claim construction order to understand what's</p> <p>8 meant by context here.</p> <p>9 And the claim construction order</p> <p>10 says that a context is environment. So an</p> <p>11 environment is, you know, what I've been calling</p> <p>12 a workspace. It is a place that has -- you</p> <p>13 know, lets a user do some work, contains the</p> <p>14 things that the user needs to do something.</p> <p>15 So what the first element is</p> <p>16 saying is that the '761 invention has a context</p> <p>17 component, so it has that kind of a workspace.</p> <p>18 And one of the things that it does is to use</p> <p>19 that context data to sort of update metadata</p> <p>20 every time you use or upload something to your</p> <p>21 workspace.</p> <p>22 So by uploading something, the</p> <p>23 context component will attach some -- will use</p> <p>24 that context information to update your</p>	<p>1 a few examples of that. Does that sound right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So if we take a look at the</p> <p>4 summary of the invention here, I believe it's</p> <p>5 Paragraph 16.</p> <p>6 Would you please explain what this</p> <p>7 tells you and how it relates to the claims of</p> <p>8 the '761 patent?</p> <p>9 A. Okay. As you can see, it says</p> <p>10 that the tool automatically stores contextual</p> <p>11 information relating to an item of communication</p> <p>12 and utilizes that contextual -- I believe the</p> <p>13 words information is missing from performance of</p> <p>14 communication tasks.</p> <p>15 So that tells me that it's storing</p> <p>16 this contextual information and using it later.</p> <p>17 So it's stored in some permanent kind of form.</p> <p>18 Q. And is there anything in the code</p> <p>19 that's also helpful with respect to the context</p> <p>20 component element of Claim 1?</p> <p>21 A. I think there are a couple of</p> <p>22 things that are helpful.</p> <p>23 Q. If you turn to the first page of</p> <p>24 the code, I think it will --</p>
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<p>1 metadata.</p> <p>2 So the second element is a</p> <p>3 tracking component. Again, this sort of keeps</p> <p>4 track of a user moving from one workspace to</p> <p>5 another, if you will.</p> <p>6 And what this element says that</p> <p>7 when a user works -- moves from one workspace to</p> <p>8 another, and then accesses from the second</p> <p>9 workspace, accesses data that was uploaded into</p> <p>10 the first workspace, it updates the metadata</p> <p>11 with that tracking information about that</p> <p>12 action.</p> <p>13 Q. Why don't we turn to the</p> <p>14 provisional application PTX 3.</p> <p>15 A. Okay.</p> <p>16 Q. And see where these elements are</p> <p>17 described. Now, does the entire provisional</p> <p>18 application inform your opinion that each of the</p> <p>19 elements of the asserted claims are disclosed in</p> <p>20 the provisional?</p> <p>21 A. Yes. Reading this as a whole, it</p> <p>22 -- well, it's responsible for my opinion that it</p> <p>23 does disclose all the elements.</p> <p>24 Q. So right now we'll just go through</p>	<p>1 A. Right. All right.</p> <p>2 So if you look at these import</p> <p>3 statements, these import statements represent</p> <p>4 taking code that's, you know, common code class</p> <p>5 libraries, code that exists sort of outside and</p> <p>6 imports them into this application.</p> <p>7 So this is very common in most</p> <p>8 programming languages. You have certain --</p> <p>9 certain kind of sort of boiler plate codes.</p> <p>10 Things are used all the time over and over and</p> <p>11 over again.</p> <p>12 And usually you just take those</p> <p>13 common things and import them for use in your</p> <p>14 own application. Now, what's interesting is</p> <p>15 that by looking at the kinds of things that get</p> <p>16 imported here, you know, you can get a pretty</p> <p>17 good idea of some of the things that the</p> <p>18 application is doing.</p> <p>19 So if we look at the fourth and</p> <p>20 fifth lines where it says import com, you know,</p> <p>21 persist and persist.vbsf. So that tells us that</p> <p>22 there's some form of persistent storage here.</p> <p>23 And vbsf, in particular, is a</p> <p>24 middleware package that makes it easier to store</p>

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1 A. Right.

2 Q. And the next element is

3 dynamically associating the data and continues

4 on through and says and data from the second

5 user workspace. And do you see that?

6 A. Mm-hmm.

7 Q. That will be Claim 4 or element

8 four of Claim 21.

9 And finally, the last element

10 which is indexing the data, and it ends with

11 from a corresponding plurality of different user

12 workspaces; right?

13 So I'll refer to that as element

14 five.

15 A. Okay.

16 Q. Can you explain how Claim 21 is

17 different than the claims we've already talked

18 about?

19 A. Well, Claim 21 is again very

20 similar, although it talks about a

21 computer-readable medium for storing

22 instructions. But the elements of the claim are

23 very similar to what we've seen before. It does

24 again mention indexing down at the end.

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1 It describes a context component.

2 It describes a tracking component.

3 So, you know, for the reasons that

4 I've described before, these are disclosed in

5 the provisional application for exactly the same

6 citations and uses.

7 Q. With respect to indexing the

8 data, --

9 A. Mm-hmm.

10 Q. -- that particular element, is

11 there a place that we can look to in the

12 provisional application in the code that might

13 be helpful that informs your opinion that all

14 the elements of Claim 21 are, in fact, disclosed

15 in the provisional?

16 A. Yeah. I think I would point us

17 back to the same place we looked at before in

18 terms of when we looked at indexing, when we see

19 that relational database is being used to store

20 the data and to store the metadata. And it just

21 would not be sensible to do that any way except,

22 you know, by indexing.

23 That's just almost essential,

24 otherwise it would take forever to sort of go

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1 through everything to see if it's there. You

2 would just naturally do this.

3 Q. And for the record, are you

4 referring to what has LTI 758 at the bottom

5 there?

6 A. Yes. Yes, that's what I'm

7 referring to.

8 Q. Okay. We're in the last set of

9 claims. Let's look at Claim 23, 25, 31 and 32.

10 A. Okay.

11 Q. And as soon as we have that up,

12 Can you generally describe what Claim 23

13 discloses and how it's different than what we've

14 already talked about?

15 A. Well, so what claim -- so we're

16 looking at 23. Okay.

17 So this is now

18 computer-implemented system. This is again, you

19 know, basically describing a context component,

20 but it says now it's on a web-based server,

21 okay, which is a little bit different

22 terminology than has been used so far.

23 And it also talked about assigning

24 one or more applications to the first user

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1 workspace and capturing context associated with

2 the user interaction while in that workspace.

3 So that's a little bit different than what we

4 see.

5 The second element describes

6 tracking change information, right, which is a

7 little bit different associated with a change in

8 access of the user from the first workspace to

9 the second user workspace and dynamically

10 storing the change on the storage component as

11 part of the metadata, wherein the user accesses

12 the data from the second user workspace.

13 So this describes slightly

14 differently, but this is very similar to the

15 tracking component that we've looked at already.

16 Q. Okay. So we can refer to Claim

17 23, the two elements. The first element being

18 the context component that would be the entirety

19 of the element and the second element being the

20 tracking component, meaning the remainder of the

21 claim; is that fair?

22 A. Yes, that makes sense.

23 Q. Okay. Could you provide an

24 example in the provisional application where it