IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of Steven H. Rempell	§	Attorney Docket No.: 113866-0014-501
	§	
U.S. Patent No. 7,594,168	§	
	§	
Issue Date: September 22, 2009	§	Customer No.: 28120
	§	
Filing Date: January 24, 2003	§	
	§	
For: BROWSER BASED WEB SITE GENERATION TOOL AND RUN TIME ENGINE	§	

REQUEST FOR *EX PARTE* REEXAMINATION OF U.S. PATENT NO. 7,594,168

Mail Stop "*Ex Parte* Reexam"
Attn: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Pursuant to the provisions of 35 U.S.C. §§ 301-307, Unified Patents, LLC ("Requester") hereby requests an *ex parte* reexamination of claims 1-6 (the "Challenged Claims") of U.S. Patent No. 7,594,168 ("the '168 Patent," Ex. 1001), which issued on September 22, 2009 to Steven H. Rempell, resulting from U.S. Patent Application No. 10/351,182 filed on Jan. 24, 2003. The '168 Patent is presently assigned to Express Mobile, Inc. ("Express"). The assignment to Express is recorded in the U.S. Patent and Trademark Office ("USPTO") at reel/frame 027778/0898.

Requester submits that this Request presents prior art references and analyses that are noncumulative of the prior art that was before the Examiner during the original prosecution of the '168 Patent and that claims 1-6 of the '168 Patent are invalid over these references. Requester therefore requests that an order for reexamination and an Office Action rejecting claims 1-6 be issued.

Ex Parte Patent Reexamination Filing Requirements

Pursuant to 37 C.F.R. § 1.510(b)(1), statements pointing out at least one substantial new question of patentability based on material, non-cumulative reference patents and printed publications for the Challenged Claims of the '168 Patent are provided in Section I of this Request.

Pursuant to 37 C.F.R. § 1.510(b)(2), reexamination of the Challenged Claims of the '168 Patent is requested, and a detailed explanation of the pertinence and manner of applying the cited references to the Challenged Claims is provided in Section II of this Request.

Pursuant to 37 C.F.R. § 1.510(b)(3), copies of every patent or printed publication relied upon or referred to in the statement pointing out each substantial new question of patentability or in the detailed explanation of the pertinence and manner of applying the cited references are provided as Exhibits 1001-1023 and Exhibits AA-CC of this Request.

Pursuant to 37 C.F.R. §1.510(b)(4), a copy of the '168 Patent is provided as Exhibit 1001 of this Request, along with a copy of any disclaimer, certificate of correction, and reexamination certificate issued corresponding to the patent.

Pursuant to 37 C.F.R. § 1.510(b)(5), the attached Certificate of Service indicates that a copy of this Request, in its entirety, has been served on Patent Owner at the following address of record for Patent Owner, in accordance with 37 C.F.R. § 1.33(c):

Steven Vossen
909 Marina Village Parkway
Suite 138
Alameda CA, 94501-1048

Also submitted herewith is the fee set forth in 37 C.F.R. § 1.20(c)(1).

Pursuant to 37 C.F.R. § 1.510(b)(6), Requester hereby certifies that the statutory estoppel provisions of 35 U.S.C. § 315(e)(1) and 35 U.S.C. § 325(e)(1) do not prohibit Requester from filing this *ex parte* patent reexamination request.

Petitioner's Ex. 1022
Page 0002

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0002

TABLE OF CONTENTS

I. Statement Pointing Out Substantial New Questions Of Patentability 1

A. Overview of the '168 Patent and its History 1

1. Scope of the '168 Patent and Technical Background 1

2. Prosecution History of the '168 Patent 5

B. Claim Construction 5

1. Claim Term: "runtime engine" (claim 1) 8

2. Claim Term: "database" (claim 1) 8

3. Claim Term: "multidimensional array" (claim 1) 9

4. Claim Term: "button" (claims 1-3) 9

5. Claim Term: "settings" (claim 1) 9

6. Claim Term: "transformation" (claim 1) 9

7. Claim Term: "time line" (claim 1) 10

8. Claim Term: "values defining transformations and time lines" (claim 1) 10

9. Claim Term: "child" (claims 2-3) 11

10. Claim Term: "file size reduction means for reducing the total size of files" (claim 5) 11

C. Listing of Prior Art Patents and Printed Publications 12

D. VDM in view of Cook, Maurer, or Li Presents Substantial New Questions of Patentability 14

1. Overview of VDM 14

2. Overview of Cook 20

3. Overview of Maurer 24

4. Overview of Li 26

E. VDM in view of Cook, Maurer, or Li and in further view of Salas Presents Substantial New Questions of Patentability 28

F. VDM in view of Cook, Maurer, or Li (optionally in further view of Salas) and in further view of NetObjects Presents Substantial New Questions of Patentability 30

G. VDM in view of Cook, Maurer, or Li (optionally in further view of Salas and/or NetObjects) and in further view of Merrick Presents Substantial New Questions of Patentability 32

II. Detailed Explanation of the Pertinence and Manner of Applying the Prior Art References to Every Claim for Which Reexamination Is Requested 34

A. Proposed Rejection of the Claims 34

1. Proposed Rejections Based on VDM and Cook (Exhibit AA) 35

Petitioner's Ex. 1022
Page 0003

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0003

2. Proposed Rejections Based on VDM and Maurer (Exhibit BB) 35
3. Proposed Rejections Based on VDM and Li (Exhibit CC) 36
B. Secondary Considerations 36
III. Disclosure of Concurrent Litigation and Reexamination Proceedings 36
IV. Conclusion 36
Appendix A – List of Prior and Concurrent Proceedings 38

Petitioner's Ex. 1022
Page 0004

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0004

TABLE OF EXHIBITS

Exhibit	Description
Ex. 1001	U.S. Patent No. 7,594,168 ("'168 Patent")
Ex. 1002	File History of U.S. Patent No. 7,594,168
Ex. 1003	Declaration of Dr. Adam Porter ("Porter")
Ex. 1004	U.S. Patent No. 6,546,397 ("'397 Patent")
Ex. 1005	U.S. Patent No. 6,415,316 to Van der Meer ("VDM '316")
Ex. 1006	U.S. Patent No. 6,289,362 to Van der Meer ("VDM '362")
Ex. 1007	U.S. Patent No. 6,178,432 to Cook ("Cook")
Ex. 1008	"Course Development Environment for Hyperware" by Hermann Maurer and Nick Scherbakov ("Maurer")
Ex. 1009	Education Resources Information Center (ERIC) information page for Maurer.
Ex. 1010	"Synchronization in WebSmart Multimedia Authoring System" by Lan Li ("Li")
Ex. 1011	Information page for Li from the University of British Columbia Library
Ex. 1012	U.S. Patent No. 6,230,185 to Salas ("Salas")
Ex. 1013	"NetObjects Fusion Version 2.0 User Guide" ("NetObjects")
Ex. 1014	Cached July 17, 1997 copy of "http://www.netobjects.com/html/userguidSupport-Current_Navwin2docs.html" from the Wayback Machine®
Ex. 1015	Cached Oct. 2, 1999 copy of "http://netobjects.com/support/html/nf2wmdocs.html" from the Wayback Machine®
Ex. 1016	U.S. Patent No. 6,292,827 to Raz ("Raz")
Ex. 1017	U.S. Patent No. 6,433,784 to Merrick et al. ("Merrick")
Ex. 1018	"Memorandum Order," *Shopify Inc. et al v. Express Mobile, Inc.*, 1:19-cv-00439, D.Del. ("Shopify Memorandum Order")

Petitioner's Ex. 1022
Page 0005

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0005

Exhibit	Description
Ex. 1019	"Order on Claim Construction," *Shopify Inc. et al v. Express Mobile, Inc.*, 1:19-cv-00439, D.Del. ("Shopify Claim Construction Order")
Ex. 1020	"Amended Order Construing Claims," *X.Commerce, Inc. v. Express Mobile, Inc.*, 3:17-cv-02605, N.D. Cal. ("X.Commerce Claim Construction Order")
Ex. 1021	"Claim Construction Memorandum Order and Opinion," *Express Mobile, Inc. v. Svanaco, Inc.*, 2:17-cv-00130, E.D.Tex. ("Svanaco Claim Construction Order")
Ex. 1022	"Joint Claim Construction Brief," *Shopify Inc. et al v. Express Mobile, Inc.*, 1:19-cv-00439, D.Del. ("Shopify Joint Claim Construction Brief")
Ex. 1023	Cached January 23, 1998 copy of Adam Porter's personal website, http://www.cs.umd.edu/~aporter/, and accompanying source code from the Wayback Machine®
Ex. AA	Claim chart comparing claims 1-4 and 6 to VDM in combination with Cook, optionally in further view of Salas and/or NetObjects, and comparing claim 5 to VDM in view of Cook (optionally in further view of Salas and/or NetObjects), and Merrick.
Ex. BB	Claim chart comparing claims 1-3 and 6 to VDM in combination with Maurer, optionally in further view of Salas and/or NetObjects, and comparing claim 5 to VDM in view of Maurer (optionally in further view of Salas and/or NetObjects), and Merrick.
Ex. CC	Claim chart comparing claims 1-3 and 6 to VDM in combination with Li, optionally in further view of Salas and/or NetObjects, and comparing claim 5 to VDM in view of Li (optionally in further view of Salas and/or NetObjects), and Merrick.

Petitioner's Ex. 1022
Page 0006

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0006

I. STATEMENT POINTING OUT SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY

Prior to describing the substantial new questions of patentability presented in this request, provided below is an overview of the '168 Patent, a discussion of claim construction, and a summary of the prior art being discussed in the present request.

A. Overview of the '168 Patent and its History

1. Scope of the '168 Patent and Technical Background

The '168 Patent is directed to a "method and apparatus for designing and building a web page" with a "WYSIWIG [what-you-see-is-what-you-get] representation of the webpage." *See* '168 Patent (Ex. 1001), Abstract. The '168 Patent is a continuation of U.S. Patent No. 6,546,397 (Ex. 1004, the "'397 patent," or "'397"), which is also directed to building a web page using a WYSIWIG interface. Copies of the '168 Patent and its file history are provided as Exhibits 1001, and 1002, respectively. For the sake of reference, the claims for which reexamination is requested are reproduced below.

> 1. A system for assembling a web site comprising:
>
> a server comprising a build engine configured to:
>
> > accept user input to create a web site, the web site comprising a plurality of web pages, each web page comprising a plurality of objects,
> >
> > accept user input to associate a style with objects of the plurality of web pages, wherein each web page comprises at least one button object or at least one image object, and wherein the at least one button object or at least one image object is associated with a style that includes values defining transformations and time lines for the at least one button object or at least one image object; and wherein each web page is defined entirely by each of the plurality of objects comprising that web page and the style associated with the object,
> >
> > produce a database with a multidimensional array comprising the objects that comprise the web site including data defining, for each object, the object style, an object number, and an indication of the web page that each object is part of, and
> >
> > provide the database to a server accessible to web browser;
>
> wherein the database is produced such that a web browser with access to a runtime engine is configured to generate the web-site from the objects and style data extracted from the provided database.

Petitioner's Ex. 1022
Page 0007

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0007

> 2. The system of claim 1, wherein one of said plurality of objects is a child, and wherein the build engine is configured to accept user input to associate a style with child button and child image objects.
>
> 3. The system of claim 2, wherein at least one of said styles includes values defining time lines for child button and child image objects.
>
> 4. The system of claim 1, wherein at least one of said styles includes settings for multiple object states.
>
> 5. The system of claim 1, further including file size reduction means for reducing the total size of files generated by said build engine to a size of between 12K and 50K.
>
> 6. The system of claim 1, where said data is stored as one or more of a Boolean an integer, a string, a floating point variables, or a URL.

In general, the claims of the '168 Patent are directed to a system for building a web site. A user interface is provided where a user can design a web page from a set of "objects," and assign a "style" to each of the objects. For example, Fig. 37 (reproduced below) shows a user interface for creating a web page, with examples "objects" (e.g., "image" objects, "paragraph" objects, or "button" objects) that have been inserted by the user.

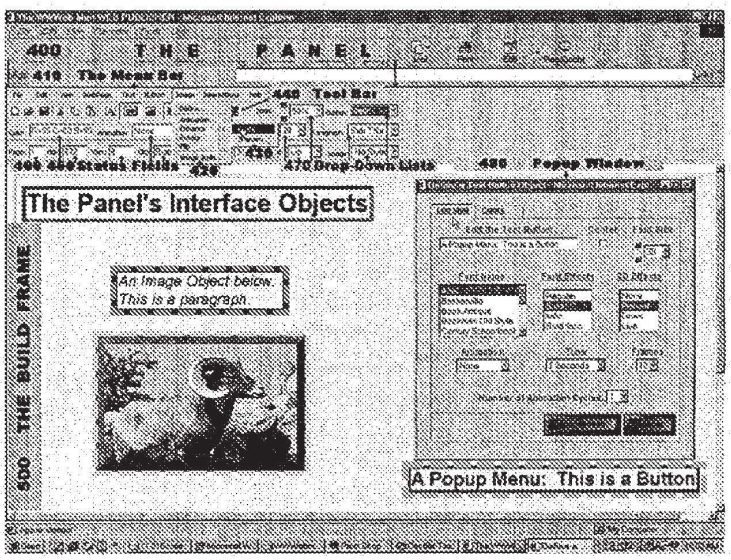


Fig. 37

'168 Patent, 10:10-16, 21:1-3, Fig. 37.[1] Each "style" corresponds to one or more settings that will be applied to an object. *See* '168 Patent, 30:32-31:56. For example, a given "style" may include

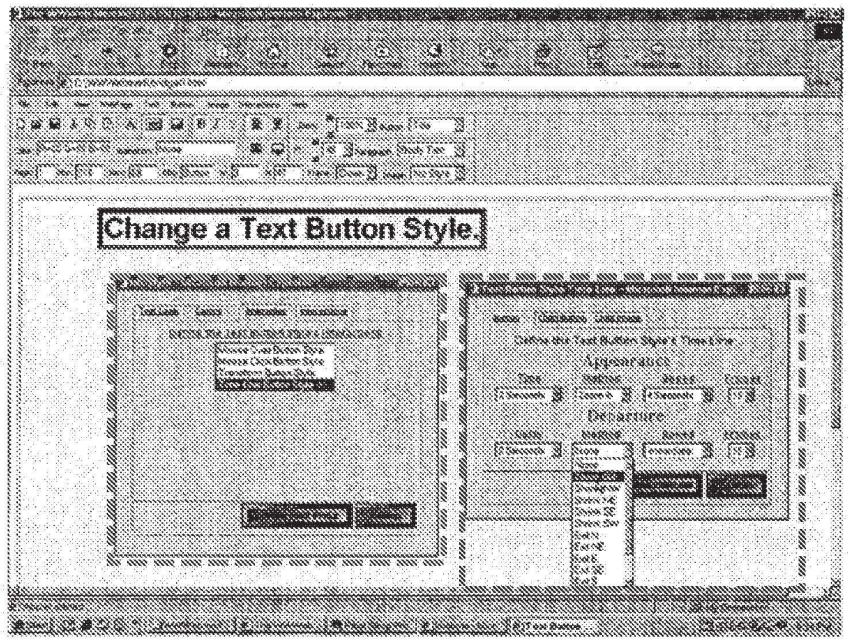
[1] All emphasis in the quotations and color annotations in the figures, in both the Request and the Exhibits, have been added by the Requester unless otherwise noted.

Petitioner's Ex. 1022
Page 0008

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0008

"settings" for the "font," "color," and "centering" used for text and buttons (31:15-21); the "centering," "scaling," and "rotation" used for images (30:32-44); and settings related to animations, "transformations," or click events that occur when a user interacts with an object. *See e.g.*, '168 Patent, 30:32-31:56. Styles can also be defined by the user, and the '168 Patent teaches that when a "style is changed, all objects … utilizing that style" will be updated to reflect that change. '168 Patent, 32:10-28. For example, Fig. 47 (reproduced below) depicts a "change text button style pop-up window" that includes tabs for changing the "text look," "colors," "animations," and "interactions" associated with the object, and a second "child pop-up window" for changing a "time line" associated with the button (i.e., settings related to the "appearance" and "departure" of the button) which appears if the user selects the option to "define the mouse down text button style."

Fig. 47



'168 Patent, 12:62-67, Fig. 47 (annotated); *see also* Fig. 46.

The '168 Patent does not purport to have invented the concept of building a website, a WYSIWIG interface, or applying style settings to objects. In fact, the '168 Patent readily acknowledges that "web site construction tools" existed, and tacitly concedes that "Hypertext Markup Language (HTML) and its Extensions (Dynamic HTML, JavaScript and Cascading Style Sheets)" were known tools for creating a "browser-based interface," and could ensure the "consistent look" of web-site elements. *See* '168 Patent, 1:19-23, 1:65-2:1, 6:17-23, 17:6-8

Petitioner's Ex. 1022
Page 0009

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0009

("Extensive use of Cascading Style Sheets (CSS) was employed to create a consistent look for all pop-up windows, and for precision placement of various HTML elements"). Rather, the problem addressed by the '168 Patent was that "traditional" web design tools would "generate as output HTML (hyper text mark-up language) and Script Code (e.g., JavaScript)," which are supposedly ill suited for "multimedia applications" and incapable of "reformatting text and scaling buttons or images dynamically" to accommodate different screen resolutions. *See* '168 Patent, 1:19-25, 1:48-53. The'168 Patent thus discloses storing the website content as an "object database," and providing a "runtime engine" that can use the information in the database to generate the website. '168 Patent, 5:36-58. For example, comparing Fig. 1 (the prior art system) and Fig. 2 (the purported invention), a "browser-based build tool" creates an "object database" from the user input, and combines this with an "HTML shell file" to produce the fully formatted web site.

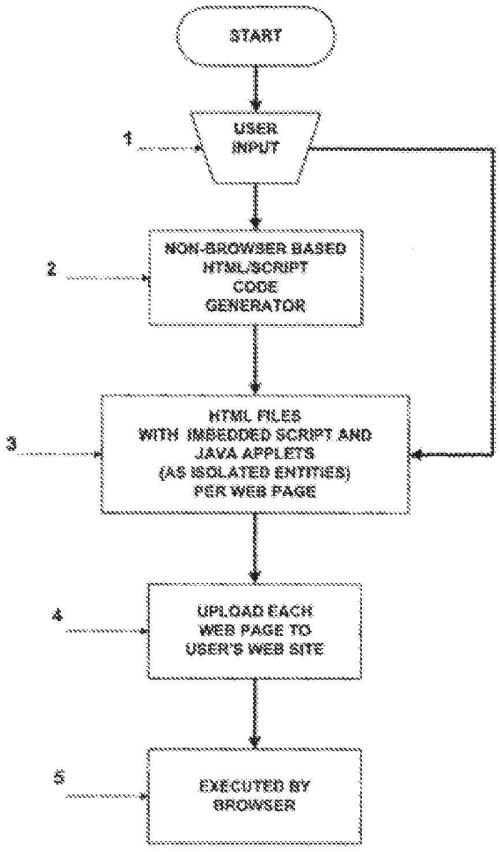


Fig. 1 PRIOR ART

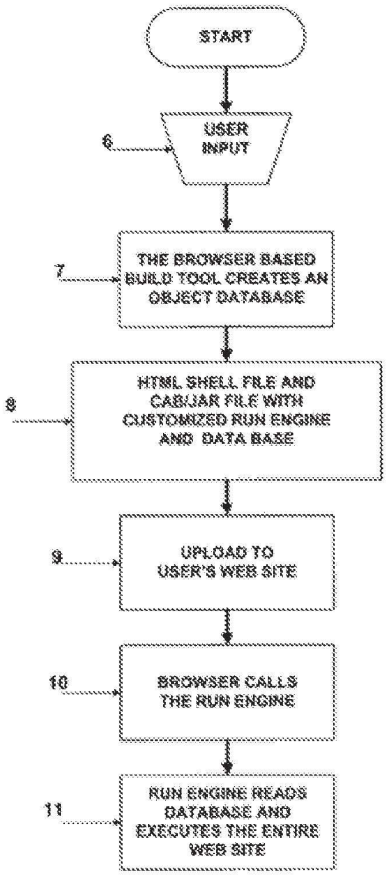


Fig. 2

Petitioner's Ex. 1022
Page 0010

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0010

'168 Patent, 5:36-58, Figs. 1-2. Specifically, the user's browser calls the run-time engine, which proceeds to "read the database," download the associated "image audio and video files," and uses that information to generate the webpage for "viewing or user interaction." '168 Patent, 5:36-58.

2. Prosecution History of the '168 Patent

The '168 Patent matured from U.S. Patent Application No. 10/351,182 (the "'182 application"), which was filed on January 24, 2003. A preliminary amendment filed concurrently with the '182 application replaced claim 1 with claims 2-53. Ex. 1002, 4-9. The Office issued a restriction requirement on March 21, 2006, and the Applicant responded on November 17, 2006 by electing to pursue claims 47-51 and 56—the group of claims purportedly directed to "style selection." *See* Ex. 1002, 191, 213.

The Examiner issued the first substantive office action on August 6, 2008, rejecting the pending claims as anticipated by "Microsoft© Frontpage© 98" by Denise Tyler ("Tyler"), or obvious over Tyler in view of U.S. 6,585,779 ("Becker"). Ex. 1002, 236-237. The Applicant responded on February 2, 2009, by amending independent claim 47 to require "producing a database of objects including data associated with the style of at least one [object];" "storing information related to the associated object style in the database;" and "a web browser having access to a runtime engine [that] can extract and use object style information from the database to generate a portion of at least one page for a web-site." Ex. 1002, 250-260.

The Examiner issued a Notice of Allowance on May 13, 2009, and entered an Examiner Amendment to replace claim 47 with a new, narrower, claim. As for the reason for allowance, the Examiner stated that the prior art did not teach "**producing a database of the constituent objects of a plurality of webpages including styles that include transformations and timelines for those objects in the matter claimed such that the web sites can be created from the database**." Ex. 1002, 273. The issue fee was paid on August 11, 2009, and the patent issued on September 22, 2009. Ex. 1002, 295-296.

B. Claim Construction

The '168 Patent is subject to 1100 days of PTA, and has not yet expired. Accordingly, the claims must be given their "broadest reasonable interpretation consistent with the specification.'" *See* MPEP § 2258; *In re Yamamoto*, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984). The present

Petitioner's Ex. 1022
Page 0011

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0011

Request presents the following claim analysis in a manner that is consistent with the broadest reasonable interpretation consistent with the specification. Requester reserves the right to advocate a different claim interpretation in any other forum or proceeding if necessary.

The following terms of the '168 patent were construed in district court litigation under the narrower *Phillips* standard. Some of these constructions were agreed upon by the parties; others were contested, so while these constructions are not binding on the patent office, they are nonetheless informative in determining the proper scope of the claims. *See e.g.*, *Power Integrations, Inc. v. Lee*, 797 F.3d 1318, 1143 ("[T]he board is not generally bound by a prior judicial construction of a claim term"); *see also In re Trans Texas Holding Corp.*, 498 F.3d 1290, 1298 (Fed. Cir. 2007). Many of these constructions are consistent with the broadest reasonable interpretation of the claims, or at least fall within the scope of the broadest reasonable interpretation. Copies of the claim construction orders issued during the district court litigations are included as Exhibits 1018-1021:

Litigation	Term Construed	Construction Ordered
X.Commerce, Inc. v. Express Mobile, Inc., 3:17-cv-02605, N.D. Cal.	"runtime engine" (claim 1)	"A file that is executed at runtime that reads information from the database and generates commands to display a web page or website."
	"database" (claim 1)	"An electronic information storage system offering data storage and retrieval."
	"button" (claims 1-3)	"A graphic object that, when activated through user interaction, performs a specified function."
	"timeline" (claims 1, 3)	"A sequence of changes that define the attributes of a text button or image object as the changes occur."
	"transformation" (claim 1)	"the changing of an object from one state to another based on a timer control, subject to user settings"
	"runtime engine" (claim 1)	"file containing code that can be executed and that, when executed at runtime, facilitates the retrieval of

Petitioner's Ex. 1022
Page 0012

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0012

Express Mobile, Inc. v. Svanaco, Inc., 2:17-cv-00130, E.D.Tex.		information from the database and generates commands to display a web page or website"
	"multidimensional array" (claim 1).	"a uniquely identifiable indexed set of related elements, wherein each element is addressed by a set of two or more indices, each index corresponding to a dimension of the array"
	"database" (claim 1)	"an electronic information storage system offering data storage and retrieval and that stores information on a record-by-record basis, each record divided into one or more fields"
	"transformation" (claim 1)	"the changing of an object from one state to another based on a timer control, subject to user settings"
	"a web browser with access to a runtime engine is configured to generate the web-site from the objects and style data extracted from the provided database" (claim 1)	"a web browser configured to generate, using a runtime engine, the web-site from the objects and style data extracted from the provided database"
Shopify Inc. et al v. Express Mobile, Inc., 1:19-cv-00439, D.Del.	"runtime engine" (claim 1)	"file that is executed at runtime that reads information from the database and generates commands to display a web page or website"
	"multidimensional array" (claim 1)	"a uniquely identifiable indexed set of related elements, wherein each element is addressed by a set of two or more indices, each index corresponding to a dimension of the array"
	"database" (claim 1)	"an electronic information storage system offering data storage and retrieval and that stores information on a record-by record basis, each record divided into one or more fields"
	"settings" (claim 1)	"attributes of an object available for selection"

Petitioner's Ex. 1022
Page 0013

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0013

	"transformation(s)" (claim 1)	"change(s) of an object from one state to another based on a timer control, subject to user settings"

For several of these terms, the prior art has equivalent disclosure to the preferred embodiments of the '168 Patent, and would satisfy the claim limitations under any reasonable construction. However, for the sake of completeness, the Requester proposes the following constructions to aid the examiner in reexamination of the challenged claims. These constructions fall well within the scope of the claims under the "broadest reasonable interpretation" standard, and would also accurately reflect the scope of the claims under a narrower *Phillips* standard.

1. Claim Term: "runtime engine" (claim 1)

The term "runtime engine" should be given its plain and ordinary meaning. To the extent it is necessary to construe the term, it should be construed to include at least a "file that is executed at runtime that reads information from the database and generates commands to display a web page or website." *See* '168 Patent, 5:47-59, 41:40-62, 43:46-60, 44:62-66, 45:6-14, Fig. 25. This is the construction adopted by the district court in both the *Shopify* and *X.Commerce* litigations. *See* Shopify Memorandum Order (Ex. 1018), 48-49; Shopify Claim Construction Order (Ex. 1019), 1; X.Commerce Claim Construction Order (Ex. 1020), 7-8. This is also generally consistent with the construction adopted by the court in the *Svanaco* litigation. *See* Svanaco Claim Construction Order (Ex. 1021), 10-13.

2. Claim Term: "database" (claim 1)

The term "database" should be given its plain and ordinary meaning. To the extent it is necessary to construe the term, it should be construed to include at least "electronic information storage system offering data storage and retrieval." *See, e.g.*, '168 Patent, 2:13-22, 5:44-58. This is the same construction advocated for by the Patent Owner and adopted by the district court in the *X.Commerce* litigation. *See* Ex. 1020, 8. This is also generally consistent with the constructions adopted by the court in the *Svanco* litigation, and mutually agreed on by the parties in the *Shopify* litigation. *See* Ex. 1019, 1; Ex. 1021, 17-19; Ex. 1022, 1.

Petitioner's Ex. 1022
Page 0014

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0014

3. Claim Term: "multidimensional array" (claim 1)

The term "multidimensional array" should be given its plain and ordinary meaning. To the extent it is necessary to construe the term, it should be construed to include at least "a uniquely identifiable indexed set of related elements, wherein each element is addressed by a set of two or more indices, each index corresponding to a dimension of the array." *See e.g.*, '168 Patent, 2:13-23, 2:43-45, 22:11-26. For example, the '168 Patent discloses that "data that defines … objects" can be stored in "two-dimensional arrays (by web page and by object number) as boolean, integer, string, floating point variables and URLs." '167 Patent 22:11-15. This is also the construction adopted by the district court in the *Svanco* litigation, and the construction the parties mutually agreed on in the *Shopify* litigation. *See* Ex. 1021, 16-18; Ex. 1019, 1; Shopify Joint Claim Construction Brief (Ex. 1022), 1. This term was not construed in the *X.Commerce* litigation.

4. Claim Term: "button" (claims 1-3)

The term "button" should be given its plain and ordinary meaning. To the extent it is necessary to construe the term, it should be construed to include at least "a graphic object that, when activated through user interaction, performs a specified function." *See* '168 Patent, 19:50-20:18, 30:25-31; 31:15-46. This is the same construction advocated for by the Patent Owner and adopted by the district court in the *X.Commerce* litigation. *See* Ex. 1020, 11. This term was not construed in the *Shopify* and *Svanco* litigations.

5. Claim Term: "settings" (claim 1)

The term "settings" should be given its plain and ordinary meaning. To the extent it is necessary to construe the term, it should be construed to include at least "attributes of an object available for selection," the construction that the parties mutually agreed on in the *Shopify* litigation. Ex. 1019, 1; Ex. 1022, 1; *see also* '168 Patent, 6:60-65, 10:39-43, 30:25-31:56 (listing exemplary settings), 32:6-18. This term was not construed in the *X Commerce* and *Svanco* litigations.

6. Claim Term: "transformation" (claim 1)

The term "transformation" should be construed to include at least a "change of an object from one state to another based on timer control, subject to user settings," which is the express

Petitioner's Ex. 1022
Page 0015

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0015

definition provided in the '168 Patent specification. *See* '168 Patent 35:46-57 ("A transformation is defined as the changing of an object from one state to another based on a timer control, subject to user settings"). For example, the '168 Patent describes at least two exemplary "transformations." First, a "transformation" for a text button is described as "the instantaneous drawing of one object state while erasing the previous object state." *Id.* Second, a "transformation" for an image as "fading out of the previous object state, while, simultaneously, fading into the next object state." *Id.* This is the same construction that was agreed on by the parties in the *Shopify*, *X.Commerce*, and *Svanco* litigations. *See* Ex. 1019, 1; Ex. 1020, 13; Ex. 1021, 7.

7. Claim Term: "time line" (claim 1)

The term "time line" should be construed to include at least "an independent asynchronous process that defines the existence of a given text button or image object," which is the express definition provided in the '168 Patent specification. *See* '168 Patent, 36:21-23 ("A time line is an independent asynchronous process that defines the existence of a given text button or image object."). Note that, during the *X Commerce* litigation, the court construed the term as "a sequence of changes that define the attributes of [an object] as the changes occur," in an effort to restate that definition using simpler language. *See* Ex. 1020, 13. For example, the '168 Patent states that a time line can define the "animations" and "transitions" used for an object, and set the timing for when an object appears and disappears. *See* '168 Patent, 36:44-37:2, Figs. 60-61; *see also* '168 Patent 30:64-31:14. The concept of a time line is also closely related to the concept of a transformation, and the '168 Patent specification discloses that an "object's transformation settings, if any, are also integrated into the timeline." '168 Patent, 37:9-11. Either construction, as restatements of each other, is consistent with the broadest reasonable interpretation.

8. Claim Term: "values defining transformations and time lines" (claim 1)

The term "values defining transformations and time lines" should be given its plain and ordinary meaning in view of the proposed constructions for "transformations" and "time lines" discussed above. To the extent further construction is necessary, it should be construed to include at least "settings that describe changes in an object's state over time." *See* '168 Patent, 30:52-13:14. As discussed above, the term "transformation" generally refers to changes of an object from one state to another based on a timer control, and the term "time line" refers to a process that defines

Petitioner's Ex. 1022
Page 0016

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0016

the existence of an object (i.e., a sequence of changes that define the attributes of an object, which may include the various "transformations" for a given object). More generally, the '168 Patent describes various exemplary transformation and time line settings that can be incorporated into a "style" for an object. *Id.* These settings include the "delay[s]," "speed[s]," "enter animations," and "exit animations," for the appearance and disappearance of parent and child objects, and the "image states [a] transformation should be from and into." *Id.* These settings all pertain to changes in an object's appearance as it transitions from one state to another over time (*i.e.*, appearing and becoming visible, disappearing and becoming invisible, or transforming into a new image). Accordingly, settings that describe changes in an object's sate over time constitute "values defining transformations and time lines" in the sense of the '168 patent.

9. Claim Term: "child" (claims 2-3)

The term "child," as it modifies object and to the extent it is necessary to construe the term, should be construed to include at least "an object with one or more properties that depends on another object." *See* '168 Patent, 30:64-31:14, 63:23-30. Although the courts did not issue a claim construction order formally construing the term, this is the definition advocated for by the Patent Owner during the *Shopify* litigation under the *Phillips* standard. *See* Shopify Joint Claim Construction Brief (Ex. 1022), 42. As noted by the Patent Owner during the district court litigation, the term child is "used to describe a general dependency relationship of one object (i.e., the child) to another object (i.e., the parent)" which can be "temporal or spatial," and does not require inheriting any properties from the parent object. *Id.*; *see also* '168 Patent, 30:64-14, 63:23-30.

10. Claim Term: "file size reduction means for reducing the total size of files" (claim 5)

To the extent that "file size reduction means for reducing the total size of files" is construed under pre-AIA §112 ¶6, the recited function is "reducing the total size of files." The '168 Patent states that files can be compressed into "CAB and JAR" files. 43:65-44:20. Additionally, Fig. 27 of the'168 Patent is a flow chart that generally describes a method of creating CAB and JAR files from JAVA class files, but no details are provided of the mechanism to actually perform the described function. '168 Patent, 43:65-44:20. The claimed apparatus performing the compression would be a CPU, GPU, or other processor. However, the specification fails to specify the structure that actually performs the method of Fig. 27. Regardless, to the extent to term is not indefinite, or

Petitioner's Ex. 1022
Page 0017

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0017

that it is not interpreted under §112 ¶6, the claimed "file size reduction means" would include at least a generic processor configured for performing compression by creating "CAB and JAR" files, which were well both well known prior-art compression formats. *See* Porter, ¶¶49-52.

C. Listing of Prior Art Patents and Printed Publications

Reexamination of the Challenged Claims is requested in view of the following references:

- **Ex. 1005 ("VDM '316")** U.S. Patent No. 6,415,316 to Van der Meer was filed on September 1, 1998 and issued July 2, 2002. VDM '316 is prior art under at least 35 U.S.C §102(e). VDM '316 incorporates by reference the cited disclosures of U.S. Patent Application No. 09/144,717, which later issued as U.S. Patent No. 6,289,362 ("VDM '362"). *See* VDM '316, 1:5-16 (incorporating the disclosure of VDM '362 in its entirety), 3:5-10 (incorporating specific teachings regarding use of content provided by a third party), 8:64-9:6 (incorporating specific teachings related to the AUA database). Requester refers to VDM '316 and VDM '362 collectively as "**VDM**." The collective VDM disclosure is prior art under at least 35 U.S.C §102(e) based on the September 1, 1998 filing dates of both VDM '316 and VDM '362.
- **Ex. 1006 ("VDM '362")** U.S. Patent No. 6,289,362 is incorporated by reference "in its entirety" into VDM '316, and therefore is part of the VMD '316 disclosure. *See* VDM '316, 1:5-16. Additionally, VDM '362 was filed substantively contemporaneously with VDM '316 on September 1, 1998 and issued on September 11, 2001, and would independently qualify as prior art under at least 35 U.S.C. §102(e).
- **Ex. 1007 ("Cook")** U.S. Patent No. 6,178,432 to Cook et al. was filed on September 30, 1996 and issued on January 23, 2001. Cook is prior art under at least 35 U.S.C. §102(e).
- **Ex. 1008 ("Maurer")** "Course Development Environment for Hyperware" by Hermann Maurer and Nick Scherbakov was published November 1998, and a true and correct copy is indexed and available through the Education Resources Information Center online library ("ERIC"). The information page for Maurer from ERIC confirming the availability of Maurer is included as Exhibit 1009. *See* Ex. 1009 (listing the title, author, abstract, and publication date; as well as an identification number, keyword descriptors, and an associated download link). Maurer qualifies as prior art under at least 35 U.S.C. §102(a) and §102(b).

Petitioner's Ex. 1022
Page 0018

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0018

- **Ex. 1010 ("Li")** "Synchronization in WebSmart Multimedia Authoring System" by Lan Li is a doctoral thesis published and deposited in April, 1998 in the University of British Columbia Library. The information page from the University of British Columbia Library confirms that Li was indexed and available as of April, 1998 is included as Exhibit 1011. *See* Ex. 1011 (listing the title, author, abstract, and DOI number; as well as indicating that Li was "available" as of "2009-05-19" and providing a download link). Li qualifies as prior art under at least 35 U.S.C. §102(a) and §102(b).
- **Ex. 1012 ("Salas")** U.S. Patent No. 6,230,185 to Salas et al. was filed on July 15, 1998 and issued on May 8, 2001. Salas is prior art under at least 35 U.S.C. §102(e).
- **Ex. 1013 ("NetObjects")** "NetObjects Fusion Version 2.0 User Guide" was published in 1997 according to the copyright notice, and was distributed as part of NetObjects Fusion 2.0 for Windows and Macintosh, which was itself widely sold that same year, as outlined below. *See* Porter, ¶¶37-39. NetObjects therefore qualifies as prior art under at least 35 U.S.C. §102(b) and 102(a) based on the 1997 publication date. To the extent that additional evidence of public accessibility is required, a cached copy of "netobjects.com" from the internet archive Wayback Machine® confirms that a user guide for NetObjects Fusion 2.0 was publicly available for download by at least July 17, 1997, (*see* Ex. 1014), and the web page where the NetObjects reference remains available for download[2] has existed since at least October 2, 1999, (*see* Ex. 1016). Accordingly, even if little or no weight is given to the copyright registration date listed in the document, NetObjects would still qualify as prior art under §102(a) and §102(b). *See* MPEP 2128 ("[T]he Wayback Machine® sets forth a prima facie case that the art was publicly accessible at the date and time provided in the time stamp.")
- **Ex. 1017 ("Merrick")** U.S. Patent No. 6,433,784 to Merrick et al. was filed on July 9, 1998 and issued on August 13, 2002. Merrick is prior art under at least 35 U.S.C. §102(e).

None of the references listed above were cited during prosecution of the '168 Patent. A Form SB-08 and copies of the cited references are submitted herewith.

[2] http://netobjects.com/support/html/nf2wmdocs.html

Petitioner's Ex. 1022
Page 0019

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0019

This request is also supported by the declaration of Dr. Adam Porter (Ex. 1003). To the extent that additional references are discussed in Dr. Porter's declaration, copies of these additional references are also being submitted, and are included on Form SB-08.

D. VDM in view of Cook, Maurer, or Li Presents Substantial New Questions of Patentability

As shown below, Requester submits that the prior art references raise a new "substantial question of patentability" because "the teaching of the (prior art) patents and printed publications is such that a reasonable examiner would consider the teaching to be important in deciding whether or not the claim is patentable." See MPEP 2242. For example, the references discussed below and in further detail in the attached charts, when considered as an ordered combination, teach each limitation of the claims, including the idea of producing a database of the constituent objects of a plurality of webpages including styles that include transformations and timelines for those objects such that the web sites can be created from the database. Further, they are new; the "same question of patentability as to the claim has not been decided by the Office in an earlier concluded examination or review of the patent" at least because none of the art referenced in this request was before the Office during prosecution of the '168 Patent. See *id.*

1. Overview of VDM

VDM collectively refers to the disclosures of U.S. 6,415,316 ("VDM '316") Ex. 1004, and U.S. 6,289,362 ("VDM '362") Ex. 1005, two related patents both filed on September 1, 1998. VDM '362 matured from U.S. App. No. 09/144,717, and is incorporated by reference in its entirety into the 'VDM '316 disclosure. See VDM '316, 1:5-17. The reverse is also true. See VDM '362, 1:7-16 (incorporating VDM '316 in its entirety, as U.S. Patent App. No. 09/144,655).

VDM discloses a system for creating an online "diary" that serves as the user's "personal website." *See* VDM '316, 1:20-23, 1:40-47. The diary (i.e., a website) is made up of individual "web pages." *See* VDM '316, 1:20-23, 6:30-43, 1:40-47. The user runs a "diary applet" through a "browser" that provides a user interface for users to insert "content objects" to each of their diary pages, which can be "any type of object, including text, bookmarks, images, programs, [or] movies." *See* VDM '316, 5:19-24, 6:30-43. For example, Fig. 4(a) (reproduced below) shows a diary page where the user has added an image of a car, along with a navigation bar that the user

Petitioner's Ex. 1022
Page 0020

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0020

can interact with to display different diary pages, move or edit objects, or access other features such as privacy settings.

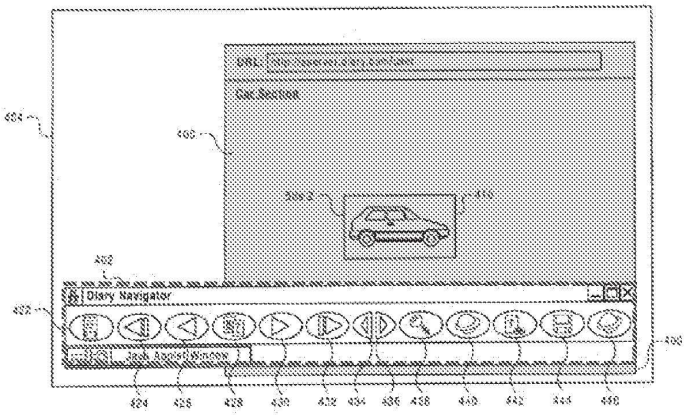


Figure 4(a)

VDM '316, 9:28-42, Fig. 4(a) (annotated). Similar to the '168 Patent, VDM '316 also teaches that a user can apply settings to the content objects through various pop-up windows. *See e.g.*, VDM '316, 9:28-42, Figs. 4(b)-4(k). For example, Fig. 4(h) (reproduced below) is a pop-up window for adding a new image to the diary, which includes options to set the "real width and height" of the object, set a "privacy level" or "textual description" for the object, or associate a "weight" and a "time" with the object—which can be used to sort objects and present them in particular order.

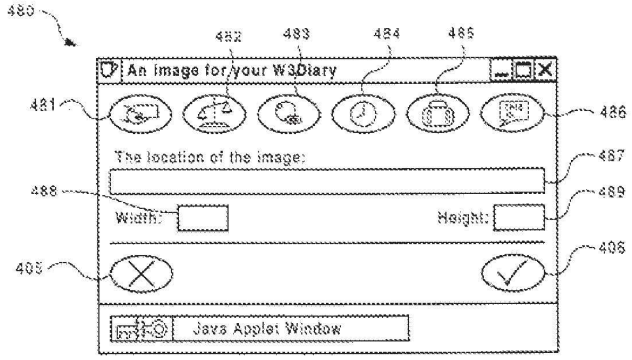


Figure 4(h)

See VDM '316, 11:50-10, Fig. 4(h). More generally, VDM '316 allows a user to enter an "edit" mode, reposition objects within the diary, change the "properties of a content object" using an interface "similar" to Fig. 4(h), and have the web page regenerate to reflect the changes being made. *See* VDM '316, 2:57-62, 12:12-28, 12:61-64, Fig. 4(l). VDM '316 also allows the user to

Petitioner's Ex. 1022
Page 0021

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0021

select a "cover" for the diary (also called a "presentation context") that controls the layout of each diary page, and reflects an overall "visual theme" for the page. *See* VDM '316, 2:25-31, 8:59-64, 17:3-17. Porter, ¶¶67-70.

Similar to the '168 Patent, VDM does not save the diary (i.e., the website) as a set of HTML pages. Instead, VDM '316 teaches that "diary data" is stored as a combination of a "cover," "configuration data," and an Annotated Universal Address ("AUA") database that stores "the content of the diary page(s) that was gathered or created by the user." *See* VDM '316, 8:59-9:1, 11:1-11, Fig. 12. The AUA-database—as described in greater detail in VDM '362—stores information about the objects, along with "annotations for controlling aspects of the objects … as they are presented to the owner and any other user," which may "override HTML default parameters" so that the websites may be created from the objects and data styles extracted from the AUA database instead. VDM '362, 2:18-23, 7:10-14, 10:17-18.[3] For example, annotations may include the "size," "description," and "privacy level" for an object, or prompts that should be displayed before an object is presented to the user. *See* VDM '362, 7:10-31. Or as shown in Fig. 15 of VDM '362, the user can be provided with a "box 1505 for inputting additional annotations," which contains parameters to be used when presenting a given object.

[3] VDM '316 specifically and expressly incorporates by reference VDM '362, which is Application No. 09/144,717, for its teachings related to the AUA database. *See* VDM '316, 8:59-9:6; *see also* 2:63-3:10 (describing the storage and use of third-party content for Java applets); *see also* 1:11-13 (generally incorporating by reference). However, to the extent a general motivation to combine is necessary, Requester provides it below.

Petitioner's Ex. 1022
Page 0022

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0022

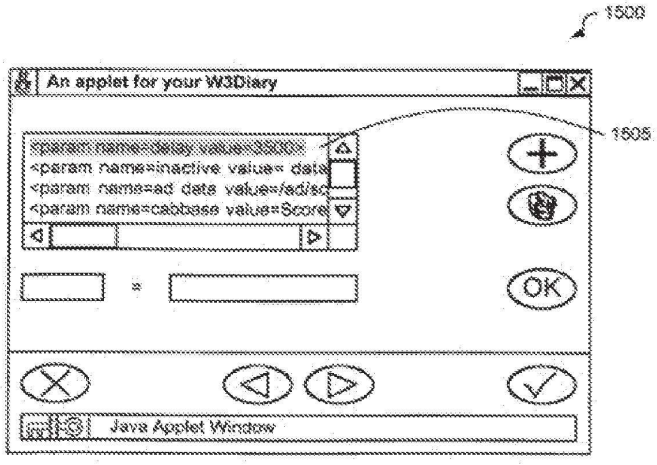


Figure 15

VDM '362, 8:15-23, Fig. 15; Porter, ¶¶71-72. A POSITA would have understood that the annotations for an object that control how it is "presented" collectively define a style (i.e., a collection of one or more settings) for a given object. Porter, ¶73. Alternately, to the extent it is argued that "styles" must include settings that can be reusably applied to multiple objects, it was well known prior to the '168 Patent that a reusable "style" could be assigned to an image or button, as shown in both NetObjects and VDM. *See, e.g.,* NetObjects, 6-2 (discussing that a user can select a "SiteStyle" that sets the appearance of a collection of "backgrounds, banners, buttons, data list icons, lines, and text colors"); *see also* VDM '316, Abstract, 2:25-31 (stating that a user can choose a "visual theme" for the pages in the diary that can be "changed at any time"). At minimum, a POSITA would have at least found it obvious that the annotations for a given object reflect any reusable "styles" applied to the object, and that it would have been routine and conventional to include this as one of the "annotations" in the database—similar to other settings that control how an object is "presented." *See* VDM '362, 2:18-23, 7:10-14; Porter, ¶74.

Additionally, as shown in Fig. 11 of VDM '316, the AUA-Database contains objects identified by a section type, the specific "section" of the diary they belong to, and a content entry number.

Petitioner's Ex. 1022
Page 0023

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0023

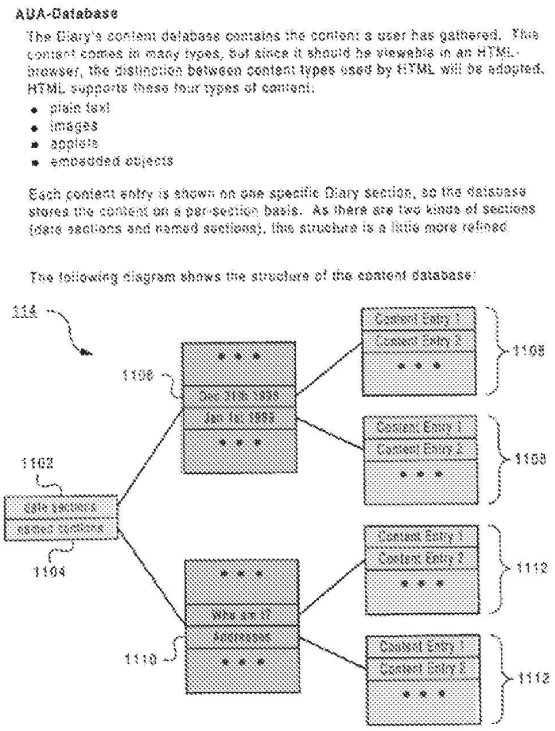


Figure 11

VDM '316, Fig. 11, 17:45-59 (stating in the text that "[e]ach content entry is shown on one specific Diary section" and there are "two kinds of sections (date sections and named sections)," where the named sections include "Who am I" and "Address" subsections.). A POSITA would have quickly grasped that this data structure would be implemented as a database with a multidimensional array (e.g., with information indexed by "section type," "section," and content entry number), which would advantageously allow data to be quickly identified using the indices. Porter, ¶75.

Alternately, implementing a database with multidimensional array was a routine an obvious design choice that was well known in the art, and a POSITA would have at least found it obvious to apply those teachings to VDM, at least in light of the teachings of Salas discussed in greater detail below. *See e.g.*, Salas, 2:43 (a storage database may be a "flat database, relational-database, [or] multi-dimensional database"); *see also* Porter, ¶76.

Like the preferred embodiment of the '168 Patent, VDM '316 and VDM '362 disclose that information extracted from the database are combined with HTML templates to generate the actual web pages presented to the user. *Compare* '168 Patent, Fig. 15 (describing the use of "HTML shell" files), 5:53-58 ("The run time engine then begins to read the database and down load image,

Petitioner's Ex. 1022
Page 0024

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0024

audio and video files, while simultaneously drawing the first web page for viewing or user interaction") *with* VDM '316, 17:61-67 (discussing that "[c]overs … can consist of HTML files in which '**on the fly**' substitutions by the diary applet are performed" to swap in the appropriate "content object" from the database); VDM '362, 5:62-64 ("The requesting browser 142, 158 executes the diary applet 148, which generates HTML data '**on the fly**' from the template 150 and from the AUAs 156 contained in the requested user diary data 146."). Specifically, VDM discloses that "[d]iary pages are generated by a generator in the diary applet" by combing "data from covers" with the "content that the user has gathered for his diary." VDM '316, 17:12-18. Porter, ¶77.

VDM is in the same general field of endeavor as the '168 Patent—creating web pages. See '168 Patent, 1:13-15 ("The present application is directed to computing systems, and more particularly to methods and apparatus for building a web site using a browser-based build engine."); VDM '316, 1:20-23 ("The present invention relates generally to computer networks and, specifically, to a method and apparatus for implementing a "diary" of Web pages or the like on a computer network."); *see also* VDM '362, ("This invention relates generally to computer networks, and more particularly provides a system and method for generating, transferring and using annotated universal addresses which can be presented by multimedia presentation tools, including internet browsers"), 3:4-9. VDM is also reasonably pertinent to the problems identified in the '168 Patent, that "conventional mark-up and scripting languages [such as HTML and JavaScript code] have not been designed for serious multimedia applications … [and] have almost no file handling ability and very little computational power." '168 Patent, 1:23-27; VDM '316, 2:3-7 ("The present invention allows a user to create a "diary" containing multimedia … , for example, text, bookmarks, images, programs, movies, etc."); VDM '362, 1:21-25 ("The present invention provides a system and method for generating, transferring and using annotated universal addresses which can be presented by multimedia presentation tools, including internet browsers."). As discussed in greater detail below, a POSITA would have been motivated to combine VDM with the teachings of the various secondary references discussed herein. Porter, ¶78.

As mentioned above, VDM '316 specifically incorporates VDM '362 by reference, particularly for its teachings related to the AUA database cited in the charts attached herewith. However, for the avoidance of doubt, a POSITA would have been motivated to incorporate the teachings of VDM '362, particularly related to the AUA database, into VDM '316. First, VDM '316 expressly motivates the incorporation of VDM '362's techniques into its system by

Petitioner's Ex. 1022
Page 0025

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0025

incorporating it by reference, such that a POSITA would have been motivated to consider and apply VDM '362 to VDM '316 to arrive at the claimed invention, as mapped in the charts attached herewith. Second, both references relate to the same personal-website building diary applet system, and incorporating VDM '362's techniques into VDM '316's system would have been routine for a POSITA, amounting to little more than the application of known techniques to improve upon similar devices and methods in the same way. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 401 (2007). Third, VDM '362 provides express motivation to apply its techniques, as many of its teachings are directed to ways to improve monetization of website building tools by allowing content providers to maintain some level of control over the objects that users employ in their personal websites, or diaries. *See, e.g.*, VDM '362, 3:13-22. Finally, as the disclosures of VDM '316 and VDM '362 are directed toward the same ultimate system, and combining them together would have required at most minor modifications in software, a POSITA would have had a reasonable expectation of success combining the references together, and would have known that applying VDM '362's teachings to VDM '316 system would have worked as expected. Porter, ¶¶79-80.

2. Overview of Cook

To the extent that VDM does not explicitly disclose that the stored style settings in the AUA-database include "values defining transformations and time lines for the at least one button object or at least one image object," this subject matter is obvious in further view of any of Cook, Maurer, or Li. These references also disclose various elements of the independent and dependent claims.

Cook is directed to a system and method "for creating an interactive web page" by using "objects" which are configured to have "associated states" that change in response to user actions. *E.g.*, Cook, Abstract. Similar to the '168 Patent, Cook discloses that an element on the web site can change states in response to the "mouse position," or in response to events such as a "mouse down" or a "mouse click." *See* Cook, 10:35-48; *see also* '168 Patent, 17:28-42, 35:19-30 (an object changes "states" and undergoes a "transformation" in response to mouse events). For example, Figures 1A and 1B illustrate some of the transformations that objects can undergo in response to user interaction, such as selecting "button 102" causing a "picture ... with a shaded border 112 to appear" to replace an arrow icon; selecting "button 104" to make it "move[] downward, change[]

Petitioner's Ex. 1022
Page 0026

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0026

color, and beg[in] to flash;" selecting button 106 to cause "a series of lines" to appear and a "sound" to play; or moving the mouse into the "region occupied by text 108" to cause a "starburst graphic" to be displayed behind the text.

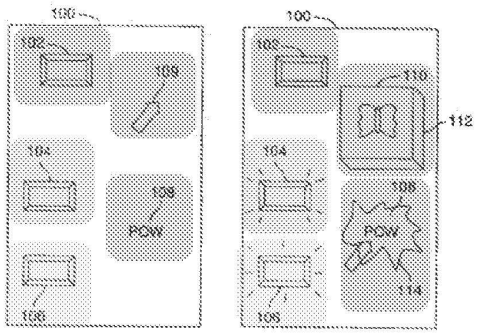


FIG. 1A FIG. 1B

Cook, 4:53-57, Figs. 1A-1B; Porter, ¶¶81-82. Cook also discloses that multiple objects can be grouped together into a "stack," and "displayed one at a time." Cook, 5:59-64. As shown in Figure 6, Cook discloses that the user can use "menu dialog box 630" to make the website "automatically display" the objects in the stack, flipping between them at a given rate in "frames per second" in order to create a "slide show or animation":

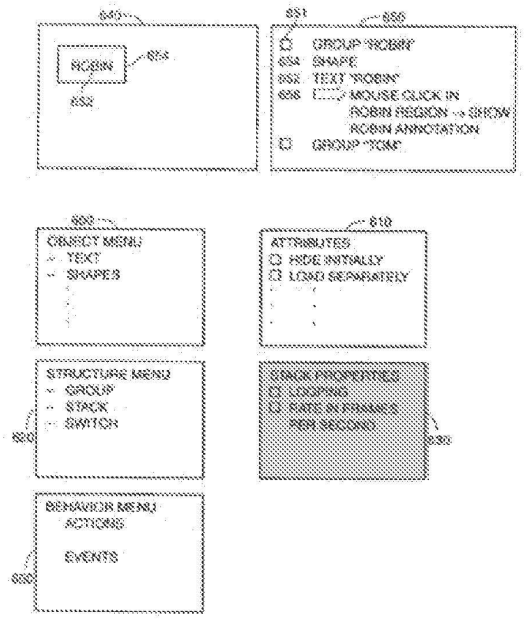


FIG. 6

Cook, 14:30-35, Fig. 6; Porter, ¶¶83-84.

Petitioner's Ex. 1022
Page 0027

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0027

A POSITA would have understood that the settings describing the behaviors in Cook (i.e., the settings that control the various transformations, or the timing of the slide-show) would commonly be applied as part of a "style" associated with an object (e.g., as part of the parameters of an object or the "visual theme" of the web page, as applied to VDM's system). *See* Porter, ¶85. Indeed, Cook teaches that settings are pre-defined using "prototypes" that are "attached" to objects and will then determine "a set of behaviors for the objects" to which they are attached. *See* Cook, 5:35-40, 6:1-5. Cook states that "prototypes are created first" using placeholder objects, and using a library of prototypes "makes Web page creation a faster, more high level process" where the user simply "makes selections from the prototypes and attaches the prototypes to user-defined objects." Cook, 5:40-58. For example, Figure 7A (shown below) depicts a "prototype" template with a "place holder object 716," that can be used to define a pre-set behavior for any object it is bound to, and control how the object is presented to a user, including the frame, shadowing, and relative position of the object, and dictating when the object appears and disappears. Cook, 16:6-14, Fig. 7A; *see also* 16:33-47, 17:17-31, 17:32-50. *See* Porter, ¶¶86-87. Accordingly, at minimum, each prototype is a reusable "style" that can be applied to one or more button or image objects, and includes values defining transformations and time lines for the objects.

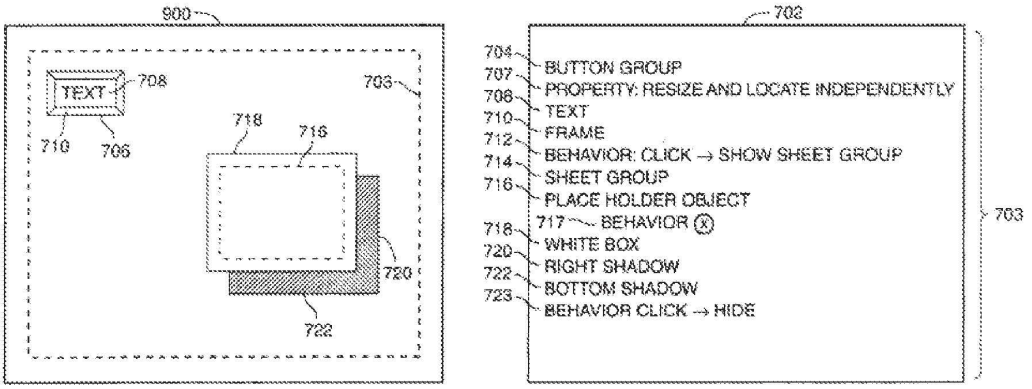


FIG. 7A

Cook is in the same general field of endeavor as VDM and the '168 Patent—creating web pages. *See* Cook, 1:6-9 ("The following invention relates generally to displaying pages of information on the WorldWide [*sic*] Web…, and specifically to creating interactive Web pages which include multimedia features."); *see also* VDM '316, 1:20-23; '168 Patent, 1:13-15. Cook is also reasonably pertinent to the problems identified in the '168 Patent, that "conventional mark-up and scripting languages have not been designed for serious multimedia applications." '168

Patent, 1:23-27; Cook, 1:6-9, 2:61-3:7 ("[T]he present invention provides a system and method for selectively displaying, moving, and hiding various objects on a single Web page…Web pages created using the present invention are more dynamic and interactive than current Web pages because the designer of the Web page is not limited to simply sending the user other Web pages upon the selection of an HTML link."). Porter, ¶88.

A POSITA would have been motivated to apply Cook's teaching of using object "states" and associating behaviors (i.e., animations and transformation settings) for objects to VDM's interface for editing a diary to advantageously allow users to create interactive objects within their diary, thus making the diary more engaging and personalized. In other words, it would apply the known feature and advantages of animations to the personalization of websites. A POSITA would have been further motivated to incorporate the use of "prototypes" to define object behaviors (or otherwise include these "behavior" settings into other types of "styles," such as the object parameters or "visual theme" described by VDM, or "styles" described by NetObjects), because it provides users with a convenient tool for quickly personalizing elements on their website. Additionally, to the extent it is not inherently disclosed as such, a POSITA would have been motivated to store this information within the AUA-database along with the other object settings to make all of the information about the objects easily accessible within a single database so that they would follow the correct behaviors on the user's diary or personal website; such would therefore have been a routine and obvious design choice. Porter, ¶89.

Cook discloses that the interactive features are enabled by use of a "Java Applet" to selectively display objects based on events, and it would have been routine and straightforward for a POSITA to incorporate similar features into VDM's diary applet, which itself may be a JAVA applet in some embodiments. *See* Cook, 6:24-45; *see also, e.g.*, VDM '316, 6:52-67. Modifying VDM in light of the similar disclosures of Cook to include object "behaviors" and the use of "prototypes" would have been little more than an obvious combination of familiar prior art elements according to known methods to yield predictable results. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Moreover, it was well known prior to the '168 Patent that Java Applets supported animations by default. Thus, a POSITA would have had a reasonable expectation of success in incorporating Cook's interactive objects into the VDM diary applet, allowing settings for these interactive objects to be made as part of the "visual theme" for a page or as individual objects settings, and storing these settings in the AUA-database. Porter ¶¶90-92.

Petitioner's Ex. 1022
Page 0029

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0029

VDM in combination with Cook render obvious each and every element of claims 1-6, and therefore presents a substantial new question of patentability. A reasonable examiner would consider the combined teachings of these references important in determining whether claims 1-6 are patentable because the references were never cited by the Examiner, or otherwise considered during prosecution. A detailed explanation of the pertinence and manner of applying VDM and Cook to the claims for which reexamination is requested is set forth in Section II below. Accordingly, the present Request proposes the following rejections based on the VMD and Cook combination:

A1: Claims 1-4 and 6 are obvious over VDM in view of Cook under 35 U.S.C. §103(a)

3. Overview of Maurer

Maurer is directed to editing tools for designing an interactive "online training" that is accessible through a "standard web browser." *See* Maurer, 2. For example, Maurer discloses that a "multimedia editor" (MM editor) can be used to edit the elements on a web page (e.g., existing "vector graphics" and "still images") and "animat[e] them on the screen," create "branches and loops," create "dramatic transitions" in parts of the screen, or "synchroniz[e] active elements on the screen." Maurer, 3. As shown in Fig. 2, Maurer also discloses that pages can be divided into individual "cells" that define "the position" and "appearance of the page elements on the user's screen." Maurer, 4.

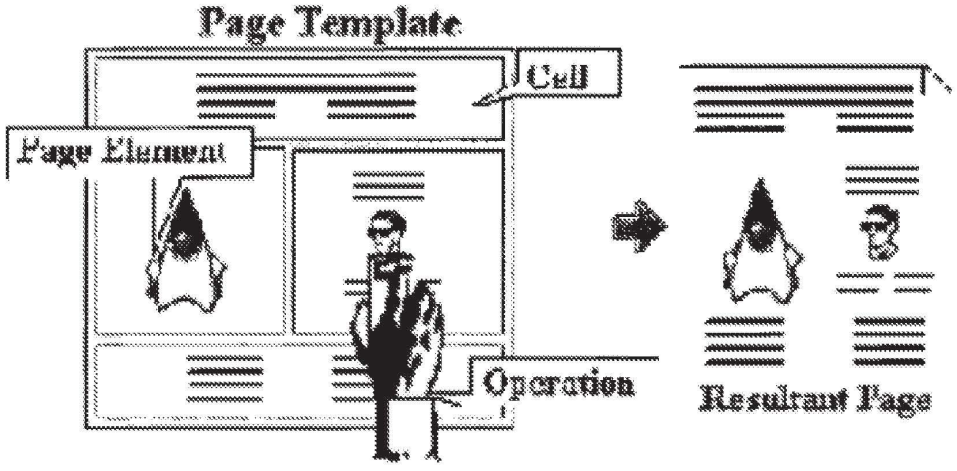


Figure 2: Page Template Components

Petitioner's Ex. 1022
Page 0030

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0030

Maurer, 4, Fig. 1.[4] Maurer discloses several types of cells, including "singular" cells, "multiple" cells" and "macro" cells. Maurer, 4. The "multiple cell" allows a user to create a "sequence of elements," and "change an order of elements' within that sequence. Maurer, 4. Porter, ¶¶93-94.

Maurer is in the same field of endeavor as VDM and the '168 Patent—creating web pages. *See* Maurer, 2 ("The paper presents a … powerful environment to develop online training[.]"), 6 ("Whenever a user accesses such learning unit with an ordinary WEB browser a special server-site Java script is run to visualize the unit in a form of interrelated HTML pages[.]"); *see also* VDM '316, 1:20-23; '168 Patent, 1:13-15. Maurer is also reasonably pertinent to the problems identified in the '168 Patent, that "conventional mark-up and scripting languages have not been designed for serious multimedia applications." '168 Patent, 1:23-27; Maurer, 1 ("Multimedia Editor provides a possibility to create highly interactive learning elements with functionality which cannot be achieved in plain HTML format (like simulations, animations, answer-judging, vector graphic, dynamic screen transitions synchronized with sound clips, etc.)."). Porter, ¶95.

A POSITA would have been motivated to apply Maurer's teaching a multimedia editor "animating"; setting "branches and loops;" making "dramatic transitions;" and creating "sequences" of elements to VDM's interface for editing a diary in order to advantageously allow users to create animated images sequences within their diary. A POSITA would have been further motivated to incorporate settings for animations and image sequences into "styles" that are applied to objects (e.g., object parameters or a "visual theme" as described by VDM, or "styles" as described by NetObjects) because it provides users with a convenient tool for quickly personalizing multiple elements on their website in a similar manner (e.g., by making all animations loop, or using the same transitions for multiple elements on the site). Additionally, to the extent it is not inherently disclosed as such, a POSITA would have been motivated to store this information within the AUA-database along with the other object settings to make all of the information about the objects easily accessible within a single database, and would have understood this to be a routine and obvious design choice. Porter, ¶96.

Similar to the VDM's diary applet, Maurer's editor can be implemented as a "Java Applet," and it would have been routine and straightforward for a POSITA to incorporate the features from the Maurer system into the VDM diary applet. *Compare* VDM '316, 6:52-56 *with* Maurer, 6.

[4] There is a typo labeling the above figure as "Figure 2" in Maurer, but this is the first figure, and the second figure is also labeled "Figure 2."

Petitioner's Ex. 1022
Page 0031

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0031

According, this modification would have been little more than an obvious combination of familiar prior art elements according to known methods to yield predictable results. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Moreover, as noted before, it was well known prior to the '168 Patent that Java Applets supported animations by default. Thus, a POSITA would have had a reasonable expectation of success in incorporating Maurer's ability to create animations, transitions, loops, and sequences into the VDM diary applet, allowing settings for these animations and image sequences to be made as part of the "visual theme" for a page or as individual object settings, and storing these setting in the AUA-database. Porter, ¶¶97-99.

VDM in combination with Maurer render obvious each and every element of claims 1-3 and 5-6, and therefore presents a substantial new question of patentability. A reasonable examiner would consider the combined teachings of these references important in determining whether claims 1-3 and 6 are patentable because the references were never cited by the Examiner, or otherwise considered during prosecution. A detailed explanation of the pertinence and manner of applying VDM and Maurer to the claims for which reexamination is requested is set forth in Section II below. Accordingly, the present Request proposes the following rejections based on the VMD and Maurer combination:

B1: Claims 1-3 and 6 are obvious over VDM in view of Maurer under 35 U.S.C. §103(a)

4. Overview of Li

Li describes "WebSmart," an "authoring system" for creating "synchronized multimedia on the Web" that can be displayed via a "browser." Li, Abstract. Li discloses that the system "allows users to synchronize an unlimited number of media objects within a web page." Li, 10. For example, Li discloses that a user can create a series of "HTML slides" that contain "text, images, as well as Java applets and JavaScript" that will accompany a video, and change over at predetermined times as the video plays. *See* Li, 10, 15. For instance, Li teaches that a simple use of the system would be to make a first image appear at a given location "5 seconds into video clip 1," and a second image appear at the same location "10 seconds into video clip 1." Li, 39. More generally, Li teaches that the "WebSmart Editor" can be used to "add or delete objects, position the objects, establish links between the objects and specific points of media clips, and distribute media clips into sections/subsections." Li, 19. Porter, ¶¶100-103.

Petitioner's Ex. 1022
Page 0032

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0032

Li is in the same field of endeavor as VDM and the '168 Patent—creating web pages. *See* Li, Abstract ("We developed and herein present WebSmart, an authoring system for bringing synchronized multimedia into the Web. The system is comprised of … an Applet that presents the documents in the end users' Web browsers."); *see also* VDM '316, 1:20-23; '168 Patent, 1:13-15. Li is also reasonably pertinent to the problems identified in the '168 Patent, that "conventional mark-up and scripting languages have not been designed for serious multimedia applications." '168 Patent, 1:23-27; Li, 4 ("[C]urrent Web technology is limited when it comes to synchronized multimedia.), 7 ("The WebSmart Applet plays back the continuous media content (video/audio/closed-caption), and controls the synchronization of the whole document through LiveConnect communications between the Java applet and JavaScript."). Porter, ¶104.

A POSITA would have been motivated to apply Li's teaching of an editor to synchronize sequences of media objects (i.e., so that they appear and disappear at predetermined times) to the interface for adding and modifying the web page elements described by VDM in order to advantageously allow users to create synchronized slide-shows and image sequences within their diary. A POSITA would have been further motivated to incorporate these synchronization settings into "styles" that are applied to objects (e.g., object parameters or a "visual theme" as described by VDM, or "styles" as described by NetObjects) because it provides users with a convenient tool for quickly personalizing multiple elements on their website in a similar manner (e.g., setting a default time that each element appears, and a default amount of time each element persists for). Additionally, to the extent it is not inherently disclosed as such, a POSITA would have been motivated to store this information within the AUA-database along with the other object settings to make all of the information about the objects easily accessible within a single database for creating the user's diary website, and would have understood this to be a routine and obvious design choice. Porter, ¶105.

Further, like VDM's system, Li's "WebSmart" platform is authored in HTML and JavaScript, and operated in combination with a "Java applet" to handle media playback and document synchronization. *See* Li, 13. Accordingly, incorporating Li's features into VDM's diary applet would have been routine and straightforward for a POSITA. *See* VDM '316, 6:52-56. This modification would have been little more than an obvious combination of familiar prior art elements according to known methods to yield predictable results. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Moreover, it was well known prior to the '168 Patent that Java Applets

Petitioner's Ex. 1022
Page 0033

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0033

allowed objects to appear and disappear, or transform, based on time-based triggers, or timelines. Thus, a POSITA would have had a reasonable expectation of success in incorporating the ability to synchronize media objects into the VDM diary applet, allowing these synchronization settings to be made as part of the "visual theme" for a page or as individual settings for objects, and storing these settings in the AUA-database. Porter, ¶¶106-108.

VDM in combination with Li render obvious each and every element of claims 1-3 and 6, and therefore presents a substantial new question of patentability. A reasonable examiner would consider the combined teachings of these references important in determining whether claims 1-3 and 5-6 are patentable because the references were never cited by the Examiner, or otherwise considered during prosecution. A detailed explanation of the pertinence and manner of applying VDM and Li to the claims for which reexamination is requested is set forth in Section II below. Accordingly, the present Request proposes the following rejections based on the VMD and Li combination:

C1: Claims 1-3 and 6 are obvious over VDM in view of Li under 35 U.S.C. §103(a)

E. VDM in view of Cook, Maurer, or Li and in further view of Salas Presents Substantial New Questions of Patentability

To the extent that additional disclosure is required of storing information in a database as a "multidimensional" array, Salas (U.S. 6,230,185) explains how a storage databases were structured as a "flat database, relational database, or multi-dimensional database," which a POSITA would understand as a database that stores information using a multidimensional array structure. Salas, 2:43; Porter, ¶¶109-110.

Salas is in the same general field of endeavor as VDM and the '168 Patent—creating web pages. See Salas, Abstract ("A method for … and using the stored data in conjunction with the HTML file to generate an HTML page for display."); *see also* VDM '316, 1:20-23, 9:7-16, 17:13-18; '168 Patent, 2:13-22. Salas is also reasonably pertinent to the problems identified in the '168 Patent, that "conventional mark-up and scripting languages … have almost no file handling ability." '168 Patent, 1:23-29; Salas, 1:12-13 ("The present invention relates to networked systems and, more particularly, to electronic distribution of products."), 1:36-39 ("In particular, the systems and methods described below allow a product to be distributed to a user for demonstration purposes without losing control of usage of the product."). Porter, ¶111.

Petitioner's Ex. 1022
Page 0034

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0034

A POSITA would have been motivated to apply Salas's teaching that a database is structured as a "multi-dimensional database" to VDM's AUA-database, as this would have advantageously allow the system to identify and retrieve content easily based on different search criteria. Porter, ¶112. For example, Figure 11 of VDM depicts each piece of content associated with a given date or name "section," and entry number. Indexing these items as a multi-dimensional array would allow certain types of searches to be optimized, such as retrieving all content from a given "section." Porter, ¶113. Moreover, databases were routinely implemented using multi-dimensional array structures, and would have been little more than an obvious combination of familiar prior art elements according to known methods to yield predictable results. Porter, ¶114; *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Thus, a POSITA would have had a reasonable expectation of success in implementing the AUA-database as a multi-dimensional database, as taught by Salas. Porter, ¶114. At most, incorporating Salas's teachings into VDM would have required minor modifications in software using well-known programming techniques and, therefore, would have led to predictable results regarding the organization of object information. Porter, ¶114.

VDM in combination with Cook, Maurer, or Li in further view of Salas render obvious each and every element of claims 1-6, and therefore presents a substantial new question of patentability. A reasonable examiner would consider the combined teachings of these references important in determining whether claims 1-6 are patentable because the references were never cited by the Examiner, or otherwise considered during prosecution. A detailed explanation of the pertinence and manner of further applying Salas to the claims for which reexamination is requested is set forth in Section II below. Accordingly, the present Request proposes the following rejections based on the VMD and Cook, Maurer, or Li in further view of Salas.

A2: Claims 1-4, and 6 are obvious over VDM in view of Cook and Salas under 35 U.S.C. §103(a)

B2: Claims 1-3 and 6 are obvious over VDM in view of Maurer and Salas under 35 U.S.C. §103(a)

C2: Claims 1-3 and 6 are obvious over VDM in view of Li and Salas under 35 U.S.C. §103(a)

Petitioner's Ex. 1022
Page 0035

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0035

F. VDM in view of Cook, Maurer, or Li (optionally in further view of Salas) and in further view of NetObjects Presents Substantial New Questions of Patentability

To the extent that additional disclosure is required of associating a "style" with "objects" beyond the art discussed above, NetObjects discloses "smart Web site production application" with a "visual, site oriented approach" to "design and prototype sites." NetObjects, 1-1. NetObjects teaches that the user can enter a "Style view" where you "apply, edit, and create the look and feel of your entire site." NetObjects, 6-1. As shown in Fig. 6-1, the Style View provides access to "SiteStyles," which are describes as "sets of thematic elements" that can change the appearance of "backgrounds, banners, buttons, data list icons, lines, and text."

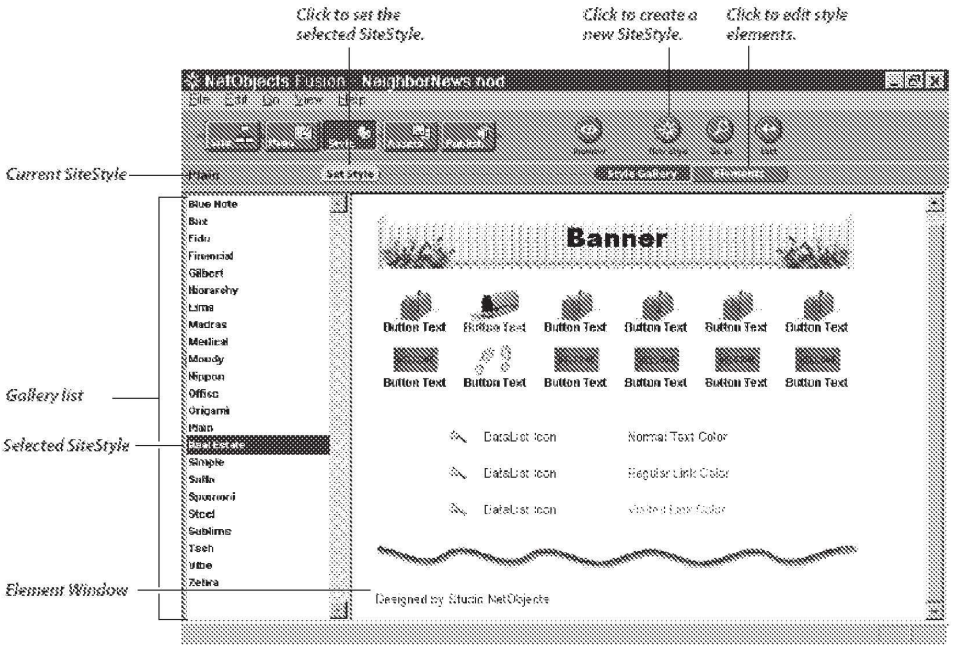


Figure 6-1. The Style View

NetObjects, 6-1, 6-2, Fig. 6.1. Additionally, NetObjects discloses that a user is able to create and edit their own SiteStyles. *See e.g.*, NetObjects, 6-3, 6-5 ("NetObjects Fusion allows you to edit any element of a style to customize it."). NetObjects also discloses that different "styles" can be applied to individual objects. *See e.g.*, NetObjects, 7-6 (a "button style" can be set using "the current SiteStyle," or "[t]o use a different style … select a style from the drop-down list box"). Porter, ¶¶115-117.

Petitioner's Ex. 1022
Page 0036

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0036

NetObjects is in the same general field of endeavor as VDM and the '168 Patent—creating web pages. *See* NetObjects, 1-1 ("NetObjects Fusion™ is the first smart Web site production application that combines automated site building, database publishing, and professional-quality design features.."); *see also* VDM '316, 1:20-23; '168 Patent, 1:13-15. NetObjects is also reasonably pertinent to the problems identified in the '168 Patent, that "conventional mark-up and scripting languages have not been designed for serious multimedia applications." '168 Patent, 1:23-27; NetObjects, 8-1 ("To help you give your Web site increased impact, NetObjects Fusion provides tools that make it easy to add rich and interactive media to your pages … such as sounds[,] video[,] movies[,] Java applets[,] Shockwave files[, or] AciveX controls"). Porter, ¶118.

A POSITA would have been motivated to apply NetObject's teaching of applying a "style" to an object (or applying a global "SiteStyle" to multiple objects) in order to provide the user with a convenient and intuitive method for controlling the appearance and overall visual theme for elements on a web page. Porter, ¶119. A POSITA would have been further motivated to store these "style" settings in the AUA-database along with the other object settings, in order to make all of the information about the objects easily accessible within a single database. Porter, ¶119. For example, VDM teaches that a user can select a "visual theme" for a page, and it would have been routine and straightforward to implement this by providing several options to the user in the form of "SiteStyles." Porter, ¶119. Similarly, a POSITA would have found it routine and straightforward to provide the user with the option to select a "style" for a given object when editing the properties of an object. Porter, ¶¶120-121. A POSITA would know that incorporating features from NetObjects into the VDM diary applet would have been little more than an obvious combination of familiar prior art elements according to known methods to yield predictable results. Porter, ¶¶120-121. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Thus, a POSITA would have had a reasonable expectation of success in incorporating NetObjects teaching of a user interface for selecting a "style" to apply to objects on a web page into the VDM diary applet, and storing these settings in the AUA-database. Porter, ¶122.

VDM in combination with Cook, Maurer, or Li (optionally in further view of Salas) in further view of NetObjects render obvious each and every element of claims 1-4 and 6, and therefore presents a substantial new question of patentability. A reasonable examiner would consider the combined teachings of these references important in determining whether claims 1-4 and 6 are patentable because the references were never cited by the Examiner, or otherwise

Petitioner's Ex. 1022
Page 0037

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0037

considered during prosecution. A detailed explanation of the pertinence and manner of further applying NetObjects to the claims for which reexamination is requested is set forth in Section II below. Accordingly, the present Request proposes the following rejections based on the VMD and Cook, Maurer, or Li in further view of NetObjects.

A3: Claims 1-4, and 6 are obvious over VDM in view of Cook and NetObjects under 35 U.S.C. §103(a)

B3: Claims 1-3 and 6 are obvious over VDM in view of Maurer and NetObjects under 35 U.S.C. §103(a)

C3: Claims 1-3 and 6 are obvious over VDM in view of Li and NetObjects under 35 U.S.C. §103(a)

A4: Claims 1-4, and 6 are obvious over VDM in view of Cook, Salas, and NetObjects under 35 U.S.C. §103(a)

B4: Claims 1-3 and 6 are obvious over VDM in view of Maurer, Salas, and NetObjects under 35 U.S.C. §103(a)

C4: Claims 1-3 and 6 are obvious over VDM in view of Li, Salas, and NetObjects under 35 U.S.C. §103(a)

G. VDM in view of Cook, Maurer, or Li (optionally in further view of Salas and/or NetObjects) and in further view of Merrick Presents Substantial New Questions of Patentability

Claim 5 of the '168 Patent requires "file size reduction means for reducing the total size of files generated … to a size of between 12K and 50K." VDM discloses that because "bandwidth and storage capacity are scarce resources in the diary applet 112, certain embodiments compress larger Java objects when they are stored." VDM '316, 17:57-60. However, to the extent that VDM does not explicitly discuss reducing files to a size range between 12K and 50K, this subject matter is obvious in further view of Merrick. Porter, ¶¶123-124.

While VDM does not recite a particular size range that files should be compressed into, Merrick teaches that it is advantageous for downloads to be in "15k to 50k" segments in order to provide a "better than bandwidth" experience, (*see* Merrick, 8:49-60), and that this allows "dynamic animation … despite bandwidth limitations," (Merrick 8:63-66). Porter, ¶125.

Petitioner's Ex. 1022
Page 0038

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0038

Merrick is in the same general field of endeavor as VDM and the '168 Patent—creating web pages. Merrick, 1:12-15 ("The system and method disclosed herein relate generally to … automatically generating animation for use in connection with Internet web pages"); *see also* VDM '316, 1:20-23; '168 Patent, 1:13-15. Merrick is also reasonably pertinent to the problems identified in the '168 Patent, that "conventional mark-up and scripting languages have not been designed for serious multimedia applications." *See* '168 Patent, 1:23-27; Merrick, 1:12-15, 4:43-46 ("The system method described herein provides a flexible, convenient and inexpensive method by which dynamic animation may be essentially automatically produced for use in connection with an Internet web page."). Porter, ¶126.

A POSITA would have been motivated to apply Merrick's teaching of producing files in the range of 15K to 50K to the files produced by VMD's diary applet in order to generate files that can be easily downloaded despite limited available bandwidth. Porter, ¶127. Moreover, to the extent such is required by this limitation, the use of CAB and JAR files to perform compression would have been an obvious and routine design choice, and a POSITA would have known that compression could be used to create files in the 15K to 50K range as taught by Merrick. Porter, ¶127. This modification would have been little more than an obvious combination of familiar prior art elements according to known methods to yield predictable results. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). Thus, a POSITA would have had a reasonable expectation of success in applying Merrick's teaching to the files produced by the VDM diary applet, and would have known that such a combination (yielding the claimed limitations) would predictably work and provide the expected functionality. Porter, ¶127.

VDM in combination with Cook, Maurer, or Li (optionally in further view of Salas and/or NetObjects) in further view of Merrick render obvious each and every element of claim 5, and therefore presents a substantial new question of patentability. A reasonable examiner would consider the combined teachings of these references important in determining whether claim 5 is patentable because the references were never cited by the Examiner, or otherwise considered during prosecution. A detailed explanation of the pertinence and manner of further applying Merrick to the claims for which reexamination is requested is set forth in Section II below. Accordingly, the present Request proposes the following rejections based on the VMD and Cook, Maurer, or Li in further view of Merrick.

Petitioner's Ex. 1022
Page 0039

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0039

A5: Claim 5 is obvious over VDM in view of Cook, and Merrick under 35 U.S.C. §103(a)

B5: Claim 5 is obvious over VDM in view of Maurer, and Merrick under 35 U.S.C. §103(a)

C5: Claim 5 is obvious over VDM in view of Li, and Merrick under 35 U.S.C. §103(a)

A6: Claim 5 is obvious over VDM in view of Cook, Salas, and Merrick under 35 U.S.C. §103(a)

B6: Claim 5 is obvious over VDM in view of Maurer, Salas, and Merrick under 35 U.S.C. §103(a)

C6: Claim 5 is obvious over VDM in view of Li, Salas, and Merrick under 35 U.S.C. §103(a)

A7: Claim 5 is obvious over VDM in view of Cook, NetObjects, and Merrick under 35 U.S.C. §103(a)

B7: Claim 5 is obvious over VDM in view of Maurer, NetObjects, and Merrick under 35 U.S.C. §103(a)

C7: Claim 5 is obvious over VDM in view of Li, NetObjects, and Merrick under 35 U.S.C. §103(a)

A8: Claim 5 is obvious over VDM in view of Cook, Salas, NetObjects, and Merrick under 35 U.S.C. §103(a)

B8: Claim 5 is obvious over VDM in view of Maurer, Salas, NetObjects, and Merrick under 35 U.S.C. §103(a)

C8: Claim 5 is obvious over VDM in view of Li, Salas, NetObjects, and Merrick under 35 U.S.C. §103(a)

II. DETAILED EXPLANATION OF THE PERTINENCE AND MANNER OF APPLYING THE PRIOR ART REFERENCES TO EVERY CLAIM FOR WHICH REEXAMINATION IS REQUESTED

A. Proposed Rejection of the Claims

The present request presents multiple proposed obviousness rejections, based on the primary reference VDM (i.e., the combined disclosures of VDM '316 and '362), first secondary references Cook, Maurer, and Li, third secondary references Salas, NetObjects, and additional secondary reference Merrick.

Requester notes that the proposed rejections below are based on obviousness under 35 U.S.C. § 103(a). Requester notes that, even if there are minor differences between cited disclosures

Petitioner's Ex. 1022
Page 0040

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0040

of the prior art and the claimed concepts, the claims are still obvious, as a POSITA would not have appreciated some new synergy or unexpected results from the limitations given the disclosures of the prior art and the general knowledge of a POSITA. When compared with the prior art described below and in light of the knowledge of a POSITA, any "differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art." 35 U.S.C. § 103 (pre-AIA). The proposed rejections are listed below and are described in further detail in the attached claim charts.

1. Proposed Rejections Based on VDM and Cook (Exhibit AA)

Proposed Rejection A1:	Claims 1-4, 6 are obvious over VDM in view of Cook.
Proposed Rejection A2:	Claims 1-4, 6 are obvious over VDM in view of Cook and Salas.
Proposed Rejection A3:	Claims 1-4, 6 are obvious over VDM in view of Cook and NetObjects.
Proposed Rejection A4:	Claims 1-4, 6 are obvious over VDM in view of Cook, Salas and NetObjects.
Proposed Rejection A5:	Claim 5 is obvious over VDM in view of Cook, and Merrick.
Proposed Rejection A6:	Claim 5 is obvious over VDM in view of Cook, Salas, and Merrick.
Proposed Rejection A7:	Claim 5 is obvious over VDM in view of Cook, NetObjects, and Merrick.
Proposed Rejection A8:	Claim 5 is obvious over VDM in view of Cook, Salas, NetObjects, and Merrick.

2. Proposed Rejections Based on VDM and Maurer (Exhibit BB)

Proposed Rejection B1:	Claims 1-3 and 6 are obvious over VDM in view of Maurer.
Proposed Rejection B2:	Claims 1-3 and 6 are obvious over VDM in view of Maurer and Salas.
Proposed Rejection B3:	Claims 1-3 and 6 are obvious over VDM in view of Maurer and NetObjects.
Proposed Rejection B4:	Claims 1-3 and 6 are obvious over VDM in view of Maurer, Salas and NetObjects.
Proposed Rejection B5:	Claim 5 is obvious over VDM in view of Maurer, and Merrick.
Proposed Rejection B6:	Claim 5 is obvious over VDM in view of Maurer, Salas, and Merrick.
Proposed Rejection B7:	Claim 5 is obvious over VDM in view of Maurer, NetObjects, and Merrick.
Proposed Rejection B8:	Claim 5 is obvious over VDM in view of Maurer, Salas, NetObjects, and Merrick.

Petitioner's Ex. 1022
Page 0041

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0041

3. Proposed Rejections Based on VDM and Li (Exhibit CC)

Proposed Rejection C1:	Claims 1-3 and 6 are obvious over VDM in view of Li.
Proposed Rejection C2:	Claims 1-3 and 6 are obvious over VDM in view of Li and Salas.
Proposed Rejection C3:	Claims 1-3 and 6 are obvious over VDM in view of Li and NetObjects.
Proposed Rejection C4:	Claims 1-3 and 6 are obvious over VDM in view of Li, Salas and NetObjects.
Proposed Rejection C5:	Claim 5 is obvious over VDM in view of Li, and Merrick.
Proposed Rejection C6:	Claim 5 is obvious over VDM in view of Li, Salas, and Merrick.
Proposed Rejection C7:	Claim 5 is obvious over VDM in view of Li, NetObjects, and Merrick.
Proposed Rejection C8:	Claim 5 is obvious over VDM in view of Li, Salas, NetObjects, and Merrick.

The claim charts provided as Exhibit AA, BB, and CC provide a detailed analysis mapping each and every element of the above-listed claims to the prior art.

B. Secondary Considerations

This Request demonstrates that the Challenged Claims of the '168 Patent are unpatentable as obvious in view of the prior art references. The Applicant did not identify any evidence of secondary considerations during prosecution, and the clear teachings in the prior art cannot be overcome by any supposed "secondary considerations." Porter, ¶¶128-129.

III. DISCLOSURE OF CONCURRENT LITIGATION AND REEXAMINATION PROCEEDINGS

The '168 Patent is the subject of 94 prior or pending District Court litigations, listed in the table in Appendix A. The '168 Patent has not been subject to prior reexamination or *inter partes* review proceedings.

IV. CONCLUSION

The Commissioner is hereby authorized to charge Deposit Account 18-1945 under Order No. 113866-0014-501 the *Ex Parte* Reexamination fee of $12,000 under 37 C.F.R. § 1.20(c)(1). Requester believes no other fee is due with this submission, however the Commissioner is hereby authorized to charge any fee deficiency or credit any over-payment to Deposit Account 18-1945.

Please direct all correspondence in this matter to the undersigned.

Petitioner's Ex. 1022
Page 0042

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0042

Dated: September 25, 2020

Respectfully submitted,

By: /Scott A. McKeown/
Scott A. McKeown (Reg. No. 42,866)
ROPES & GRAY LLP
2099 Pennsylvania Avenue, N.W.
Washington, DC 20006-6807
Scott.McKeown@ropesgray.com

Attorney for Requester Unified Patents, LLC

Petitioner's Ex. 1022
Page 0043

IPR No. 2022-00572
Petitioner's Exhibit 1022
Page 0043