

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

DODOTS LICENSING SOLUTIONS LLC,
Patent Owner

Inter Partes Review Case No. IPR2023-00939
U.S. Patent No. 8,510,407

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,510,407**

TABLE OF CONTENTS

I.	Introduction	1
II.	Summary of the '407 Patent	1
	A. DESCRIPTION OF THE '407 PATENT.....	1
	B. THE '407 PATENT'S PROSECUTION.....	3
	C. THE <i>ADVANCED BIONICS</i> FRAMEWORK FAVORS INSTITUTION	5
	D. A PERSON OF ORDINARY SKILL IN THE ART	6
III.	Requirements for IPR Under 37 C.F.R. § 42.104	7
	A. GROUNDS FOR STANDING UNDER 37 C.F.R. § 42.104(A).....	7
	B. IDENTIFICATION OF CHALLENGES UNDER 37 C.F.R. § 42.104(B) AND RELIEF REQUESTED	7
	C. CLAIM CONSTRUCTION UNDER 37 C.F.R. § 42.104(B)(3)	8
IV.	PRIOR ART	10
	A. OVERVIEW OF SLIVKA.....	10
	B. OVERVIEW OF POWELL.....	17
	C. OVERVIEW OF VOTIPKA	18
	D. OVERVIEW OF ANABUKI.....	19
V.	Ground 1: Claims 1-4, 6-11, 13-16, and 18-23 are Obvious Over <i>Slivka</i> in View of <i>Powell</i>	19
	A. CLAIM 1(PRE): A CLIENT COMPUTING DEVICE CONFIGURED TO ACCESS CONTENT OVER A NETWORK, THE CLIENT COMPUTING DEVICE COMPRISING:	20
	B. CLAIM 1(A): ELECTRONIC STORAGE CONFIGURED TO STORE NETWORKED INFORMATION MONITOR TEMPLATE ASSOCIATED WITH A NETWORKED INFORMATION MONITOR, THE NETWORKED INFORMATION MONITOR TEMPLATE HAVING THEREIN A DEFINITION OF A VIEWER GRAPHICAL USER INTERFACE HAVING A FRAME WITHIN WHICH TIME-VARYING CONTENT IN A WEB BROWSER-READABLE LANGUAGE MAY BE PRESENTED ON A DISPLAY ASSOCIATED WITH THE CLIENT COMPUTING DEVICE, WHEREIN THE FRAME OF THE VIEWER GRAPHICAL USER INTERFACE LACKS CONTROLS FOR ENABLING A USER TO SPECIFY A	

NETWORK LOCATION AT WHICH CONTENT FOR THE NETWORKED INFORMATION MONITOR IS AVAILABLE; AND	22
1. <i>Electronic Storage</i>	22
2. <i>NIM Template and Associated NIM</i>	23
3. <i>Time-Varying Content</i>	29
4. <i>Lacks Controls for Enabling a User to Specify a Network Location</i>	30
5. <i>Electronic Storage Configured to Store NIM Template</i>	32
C. CLAIM 1(B): ONE OR MORE PROCESSORS CONFIGURED TO EXECUTE ONE OR MORE COMPUTER PROGRAM MODULES, THE ONE OR MORE COMPUTER PROGRAM MODULES BEING CONFIGURED TO ACCESS THE NETWORKED INFORMATION MONITOR DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE, WHEREIN ACCESSING THE NETWORKED INFORMATION MONITOR DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE RESULTS IN:	34
D. CLAIM 1(B)(I): TRANSMISSION, OVER A NETWORK TO A WEB SERVER AT A NETWORK LOCATION, OF A CONTENT REQUEST FOR CONTENT TO BE DISPLAYED WITHIN THE FRAME OF THE VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE;	36
1. <i>Slivka's Teachings</i>	36
2. <i>Powell's Teachings</i>	38
3. <i>Motivation to Modify Slivka</i>	39
E. CLAIM 1(B)(II): RECEPTION, OVER THE NETWORK FROM THE WEB SERVER AT THE NETWORK LOCATION, OF CONTENT TRANSMITTED FROM THE WEB SERVER IN RESPONSE TO THE CONTENT REQUEST, THE CONTENT BEING TIME-VARYING;	41
F. CLAIM 1(B)(III): PRESENTATION, ON THE DISPLAY, OF THE VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE OUTSIDE OF AND SEPARATE FROM ANY GRAPHICAL USER INTERFACE OF ANY OTHER APPLICATION; AND	41
G. CLAIM 1(B)(IV): PRESENTATION, ON THE DISPLAY WITHIN THE FRAME OF THE VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE NETWORKED INFORMATION MONITOR, OF THE TIME-VARYING CONTENT RECEIVED FROM THE WEB SERVER.....	44

H.	CLAIM 2: THE METHOD OF CLAIM 1, FURTHER COMPRISING, RESPONSIVE TO RECEPTION OF ONE OR MORE ELEMENTS INCLUDED IN THE RECEIVED TIME-VARYING CONTENT, MODIFYING A FEATURE OF SAID VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE IN ACCORDANCE WITH A MODIFICATION CORRESPONDING TO THE RECEIVED ONE OR MORE ELEMENTS.....	44
I.	CLAIM 3: THE CLIENT COMPUTING DEVICE OF CLAIM 2, WHEREIN SAID MODIFICATION CORRESPONDING TO THE RECEIVED ONE OR MORE ELEMENTS COMPRISES A MODIFICATION TO AN IMAGE DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE AS FORMING A PART OF SAID VIEWER GRAPHICAL USER INTERFACE.....	46
J.	CLAIM 4: THE CLIENT COMPUTING DEVICE OF CLAIM 2, WHEREIN THE CORRESPONDENCE BETWEEN THE MODIFICATION AND THE RECEIVED ONE OR MORE ELEMENTS IS DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE.	47
K.	CLAIM 6: THE CLIENT COMPUTING DEVICE OF CLAIM 2, WHEREIN THE ONE OR MORE COMPUTER PROGRAM MODULES AND THE NETWORKED INFORMATION MONITOR TEMPLATE ARE CONFIGURED SUCH THAT MODIFYING THE FEATURE OF THE VIEWER GRAPHICAL USER INTERFACE COMPRISES CHANGING A COORD OF A FRAME BORDER OR BACKGROUND OF THE VIEWER GRAPHICAL USER INTERFACE.	48
	1. <i>Slivka's Teachings</i>	48
	2. <i>Powell's Teachings</i>	49
	3. <i>Motivation to Modify Slivka</i>	52
L.	CLAIM 7: THE CLIENT COMPUTING DEVICE OF CLAIM 2, WHEREIN THE ONE OR MORE COMPUTER PROGRAM MODULES AND THE NETWORKED INFORMATION MONITOR TEMPLATE ARE CONFIGURED SUCH THAT MODIFYING THE FEATURE OF THE VIEWER GRAPHICAL USER INTERFACE COMPRISES MODIFYING TEXT OF THE VIEWER GRAPHICAL USER INTERFACE IN A MANNER DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE.	54
	1. <i>Slivka's Teachings</i>	54
	2. <i>Powell's Teachings</i>	56
	3. <i>Motivation to Modify Slivka</i>	57

M.	CLAIM 8: THE CLIENT COMPUTING DEVICE OF CLAIM 1, WHEREIN THE NETWORKED INFORMATION MONITOR TEMPLATE INCLUDES A MARKUP LANGUAGE FILE.....	57
N.	CLAIM 9: THE CLIENT COMPUTING DEVICE OF CLAIM 1, WHEREIN ONE OR MORE COMPUTER PROGRAM MODULES ARE CONFIGURED SUCH THAT THE TIME-VARYING CONTENT IS RECEIVED FROM THE WEB SERVER OVER THE NETWORK ACCORDING TO THE TCP/IP PROTOCOL.	58
O.	CLAIM 10: THE CLIENT COMPUTING DEVICE OF CLAIM 1, WHEREIN THE NETWORK LOCATION CORRESPONDS TO A UNIFORM RESOURCE LOCATOR INCLUDED IN THE NETWORKED INFORMATION MONITOR TEMPLATE.	59
P.	CLAIM 11: THE CLIENT COMPUTING DEVICE OF CLAIM 10, WHEREIN THE ONE OR MORE COMPUTER PROGRAM MODULES ARE FURTHER CONFIGURED SUCH THAT ACCESSING THE NETWORKED INFORMATION MONITOR DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE RESULTS IN TRANSMISSION OF THE CONTENT REQUEST TO THE UNIFORM RESOURCE LOCATOR INCLUDED IN THE NETWORKED INFORMATION MONITOR TEMPLATE, AND THE CONTENT REQUEST BEING TRANSMITTED ACCORDING TO THE TCP/IP PROTOCOL OVER THE NETWORK.	60
Q.	CLAIM 13(PRE): A COMPUTER-IMPLEMENTED METHOD OF ACCESSING CONTENT OVER A NETWORK ON A CLIENT COMPUTING DEVICE, THE CLIENT COMPUTING DEVICE HAVING ELECTRONIC STORAGE AND ONE OR MORE PROCESSORS CONFIGURED TO EXECUTE ONE OR MORE COMPUTER PROGRAM MODULES, THE CLIENT METHOD COMPRISING:	60
R.	CLAIM 13(A): STORING, TO THE ELECTRONIC STORAGE, A NETWORKED INFORMATION MONITOR TEMPLATE ASSOCIATED WITH A NETWORKED INFORMATION MONITOR, THE NETWORKED INFORMATION MONITOR TEMPLATE HAVING THEREIN A DEFINITION OF A VIEWER GRAPHICAL USER INTERFACE HAVING A FRAME WITHIN WHICH TIME-VARYING CONTENT IN A WEB BROWSER-READABLE LANGUAGE MAY BE PRESENTED ON A DISPLAY ASSOCIATED WITH THE CLIENT COMPUTING DEVICE, WHEREIN THE FRAME OF THE VIEWER GRAPHICAL USER INTERFACE LACKS CONTROLS FOR ENABLING A USER TO SPECIFY A	

	NETWORK LOCATION AT WHICH CONTENT FOR THE NETWORKED INFORMATION MONITOR IS AVAILABLE;	61
S.	CLAIM 13(B): ACCESSING THE NETWORKED INFORMATION MONITOR DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE, WHEREIN ACCESSING THE NETWORKED INFORMATION MONITOR DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE RESULTS IN:.....	61
T.	CLAIM 13(B)(I): TRANSMISSION, OVER A NETWORK TO A WEB SERVER AT A NETWORK LOCATION, OF A CONTENT REQUEST FOR CONTENT TO BE DISPLAYED IN THE VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE;	61
U.	CLAIM 13(B)(II): RECEPTION, OVER THE NETWORK FROM THE WEB SERVER AT THE NETWORK LOCATION, OF CONTENT TRANSMITTED FROM THE WEB SERVER IN RESPONSE TO THE CONTENT REQUEST, THE CONTENT BEING TIME-VARYING;	61
V.	CLAIM 13(B)(III): PRESENTATION, ON THE DISPLAY, OF THE VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE APPLICATION MEDIA PACKAGE TEMPLATE OUTSIDE OF AND SEPARATE FROM ANY GRAPHICAL USER INTERFACE OF ANY OTHER APPLICATION; AND	61
W.	CLAIM 13(B)(IV): PRESENTATION, ON THE DISPLAY WITHIN THE FRAME OF THE VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE NETWORKED INFORMATION MONITOR, OF THE TIME-VARYING CONTENT RECEIVED FROM THE WEB SERVER.....	62
X.	CLAIM 14: THE METHOD OF CLAIM 13, RESPONSIVE TO RECEPTION OF ONE OR MORE ELEMENTS INCLUDED IN THE RECEIVED TIME-VARYING CONTENT, MODIFYING A FEATURE OF SAID VIEWER GRAPHICAL USER INTERFACE DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE IN ACCORDANCE WITH A MODIFICATION CORRESPONDING TO THE RECEIVED ONE OR MORE ELEMENTS.	62
Y.	CLAIM 15: THE METHOD OF CLAIM 14, WHEREIN SAID MODIFICATION CORRESPONDING TO THE RECEIVED ONE OR MORE ELEMENTS COMPRISES A MODIFICATION TO AN IMAGE DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE AS FORMING A PART OF SAID VIEWER GRAPHICAL USER INTERFACE.	62

Z.	CLAIM 16: THE METHOD OF CLAIM 14, WHEREIN THE CORRESPONDENCE BETWEEN THE MODIFICATION AND THE RECEIVED ONE OR MORE ELEMENTS IS DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE.	62
AA.	CLAIM 18: THE METHOD OF CLAIM 14, WHEREIN MODIFYING THE FEATURE OF THE VIEWER GRAPHICAL USER INTERFACE COMPRISES CHANGING A COLOR OF A FRAME BORDER OR BACKGROUND OF THE VIEWER GRAPHICAL USER INTERFACE.	62
BB.	CLAIM 19: THE METHOD OF CLAIM 14, WHEREIN MODIFYING THE FEATURE OF THE VIEWER GRAPHICAL USER INTERFACE COMPRISES MODIFYING TEXT OF THE VIEWER GRAPHICAL USER INTERFACE IN A MANNER DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE.	62
CC.	CLAIM 20: THE METHOD OF CLAIM 13, WHEREIN THE NETWORKED INFORMATION MONITOR TEMPLATE INCLUDES A MARKUP LANGUAGE FILE, AND WHEREIN STORING THE NETWORKED INFORMATION MONITOR TEMPLATE COMPRISES STORING THE MARKUP LANGUAGE FILE.....	63
DD.	CLAIM 21: THE METHOD OF CLAIM 13, WHEREIN THE TIME-VARYING CONTENT IS RECEIVED FROM THE WEB SERVER OVER THE NETWORK ACCORDING TO THE TCP/IP PROTOCOL.....	63
EE.	CLAIM 22: THE METHOD OF CLAIM 13, WHEREIN THE NETWORK LOCATION CORRESPONDS TO A UNIFORM RESOURCE LOCATOR INCLUDED IN THE NETWORKED INFORMATION MONITOR TEMPLATE.	63
FF.	CLAIM 23: THE METHOD OF CLAIM 22, WHEREIN ACCESSING THE NETWORKED INFORMATION MONITOR DEFINED BY THE NETWORKED INFORMATION MONITOR TEMPLATE RESULTS IN TRANSMISSION OF THE CONTENT REQUEST TO THE UNIFORM RESOURCE LOCATOR INCLUDED IN THE NETWORKED INFORMATION MONITOR TEMPLATE, AND THE CONTENT REQUEST BEING TRANSMITTED ACCORDING TO THE TCP/IP PROTOCOL OVER THE NETWORK.	63
VI.	GROUND 2: Claims 5 and 17 are Obvious Over <i>Slivka</i> in View of <i>Powell</i> and <i>Votipka</i>.....	63
A.	CLAIM 5: THE CLIENT COMPUTING DEVICE OF CLAIM 2, WHEREIN THE ONE OR MORE COMPUTER PROGRAM MODULES AND THE	

NETWORKED INFORMATION MONITOR TEMPLATE ARE CONFIGURED SUCH THAT MODIFYING THE FEATURE OF THE VIEWER GRAPHICAL USER INTERFACE COMPRISES ADJUSTING A SIZE OF THE FRAME OF THE VIEWER GRAPHICAL USER INTERFACE.	63
1. <i>Slivka's Teachings</i>	64
2. <i>Votipka's Teachings</i>	66
3. <i>Motivation to Modify Slivka</i>	67
B. CLAIM 17: THE METHOD OF CLAIM 14, WHEREIN MODIFYING THE FEATURE OF THE VIEWER GRAPHICAL USER INTERFACE COMPRISES ADJUSTING A SIZE OF THE FRAME OF THE VIEWER GRAPHICAL USER INTERFACE.....	68
VII. GROUND 3: Claims 12 and 24 are Obvious Over <i>Slivka</i> in view of <i>Powell</i> and <i>Anabuki</i>	68
A. CLAIM 12(PRE): THE CLIENT COMPUTING DEVICE OF CLAIM 1, WHEREIN THE ONE OR MORE COMPUTER PROGRAM MODULES ARE FURTHER CONFIGURED:	68
B. CLAIM 12(A): TO TRANSMIT, OVER THE NETWORK TO A NETWORKED INFORMATION MONITOR SERVER, A REQUEST FOR THE NETWORKED INFORMATION MONITOR TEMPLATE.....	69
1. <i>Slivka's Teachings</i>	69
2. <i>Anabuki's Teachings</i>	69
3. <i>Motivation to Modify Slivka</i>	71
C. CLAIM 12(B): TO RECEIVE, FROM THE NETWORKED INFORMATION MONITOR SERVER OVER THE NETWORK, THE NETWORKED INFORMATION MONITOR TEMPLATE; AND	73
D. CLAIM 12(C): TO STORE THE NETWORKED INFORMATION MONITOR TEMPLATE TO THE ELECTRONIC STORAGE.	74
E. CLAIM 24(PRE): THE METHOD OF CLAIM 13, FURTHER COMPRISING:	74
F. CLAIM 24(A): PRIOR TO STORING THE NETWORKED INFORMATION MONITOR TEMPLATE TO THE ELECTRONIC STORAGE, TRANSMITTING, OVER THE NETWORK TO A NETWORKED INFORMATION MONITOR SERVER, A REQUEST FOR THE NETWORKED INFORMATION MONITOR TEMPLATE; AND.....	74

G.	CLAIM 24(B): RECEIVING, FROM THE NETWORKED INFORMATION MONITOR SERVER OVER THE NETWORK, THE NETWORKED INFORMATION MONITOR TEMPLATE.	74
VIII.	THE BOARD’S DISCRETION UNDER 35 U.S.C. § 314(a)	75
IX.	CONCLUSION	76
X.	MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(a)(1)	77
A.	REAL PARTY-IN-INTEREST	77
B.	RELATED MATTERS.....	77
C.	LEAD AND BACK-UP COUNSEL	78

TABLE OF AUTHORITIES

Cases:

<i>Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH</i> , IPR2019-01469, Paper 6 (Feb. 13, 2020)	5
<i>Becton, Dickinson & Co. v. B. Braun Melsungen AG</i> , IPR2017-01586, Paper 8 (Dec. 15, 2017)	5
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) (en banc)	8
<i>Western Digital Corporation v. Spex Technologies, Inc.</i> , IPR2018-00084, Paper 14 (PTAB Apr. 25, 2018)	9
<i>General Electric v. Vestas</i> , IPR2018-00928, Paper 9 (PTAB Nov. 5, 2018)	9
<i>Sun Studs, Inc. v. ATA Equip. Leasing, Inc.</i> , 872 F.2d 978 (Fed. Cir. 1989)	10
<i>IBM Corp. v. Iancu</i> , No. 18-1065, (slip op.) (Fed. Cir. 2019) (nonprecedential)	30
<i>AC Techs. S.A. v. Amazon.com, Inc.</i> , 912 F.3d 1358 (Fed. Cir. 2019) (precedential)	30
<i>Sud-Chemie, Inc. v. Multisorb Techs., Inc.</i> , 554 F.2d 1001, (Fed. Cir. 2009) (precedential)	30
<i>NHK Spring Co., Ltd., v. Intri-Plex Technologies, Inc.</i> , IPR2018-00752, Paper 8 (PTAB Sept. 12, 2018) (precedential)	75
<i>Apple Inc. v. Fintiv, Inc.</i> , IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential)	75

Statutes:

35 U.S.C. § 102(e)(pre-AIA)	10, 18, 19
35 U.S.C. § 103(pre-AIA)	7
35 U.S.C. § 314(a)	75, 76
35 U.S.C. § 325(d)	5

Regulations:

37 C.F.R. § 42.104	7
37 C.F.R. § 42.104(a)	7
37 C.F.R. § 42.104(b)	7, 8
37 C.F.R. § 42.100(b)	8
83 Fed. Reg. 197 (Oct. 11, 2018)	8
37 C.F.R. § 42.8(a)(1)	75
37 C.F.R. § 42.8(b)	75, 77, 85
37 C.F.R. § 42.105	86

Manual Patent Examining Procedure:

MPEP § 2136.02	10
MPEP § 2120.01	10

I. INTRODUCTION

Petitioner Apple Inc. (“Petitioner”) requests *Inter Partes* Review (“IPR”) of Claims 1-24 (collectively, the “Challenged Claims”) of U.S. Patent No. 8,510,407 (the “’407 Patent”) (Ex. 1001).

II. SUMMARY OF THE ’407 PATENT

A. Description of the ’407 Patent

The ’407 Patent is directed toward a device and method of presenting distributable computer readable media, including time varying Internet content, to a user in response to a user request. ’407 Patent (Ex. 1001), 2:59-61, Abstract. The ’407 Patent teaches that the Internet content is presented to a user through a Networked Information Monitor (“NIM”). ’407 Patent, 5:19-23, 20:18-30. The ’407 Patent further defines a NIM as “a fully configurable frame with one or more controls[,]” and explains that the NIM is different from a conventional browser. ’407 Patent, 5:21-28. FIG. 4, below, shows exemplary NIM 186 (blue), a NIM for date and time, and NIM 184 (red) for managing one’s calendar. ’407 Patent, FIG. 4, 14:10-18.

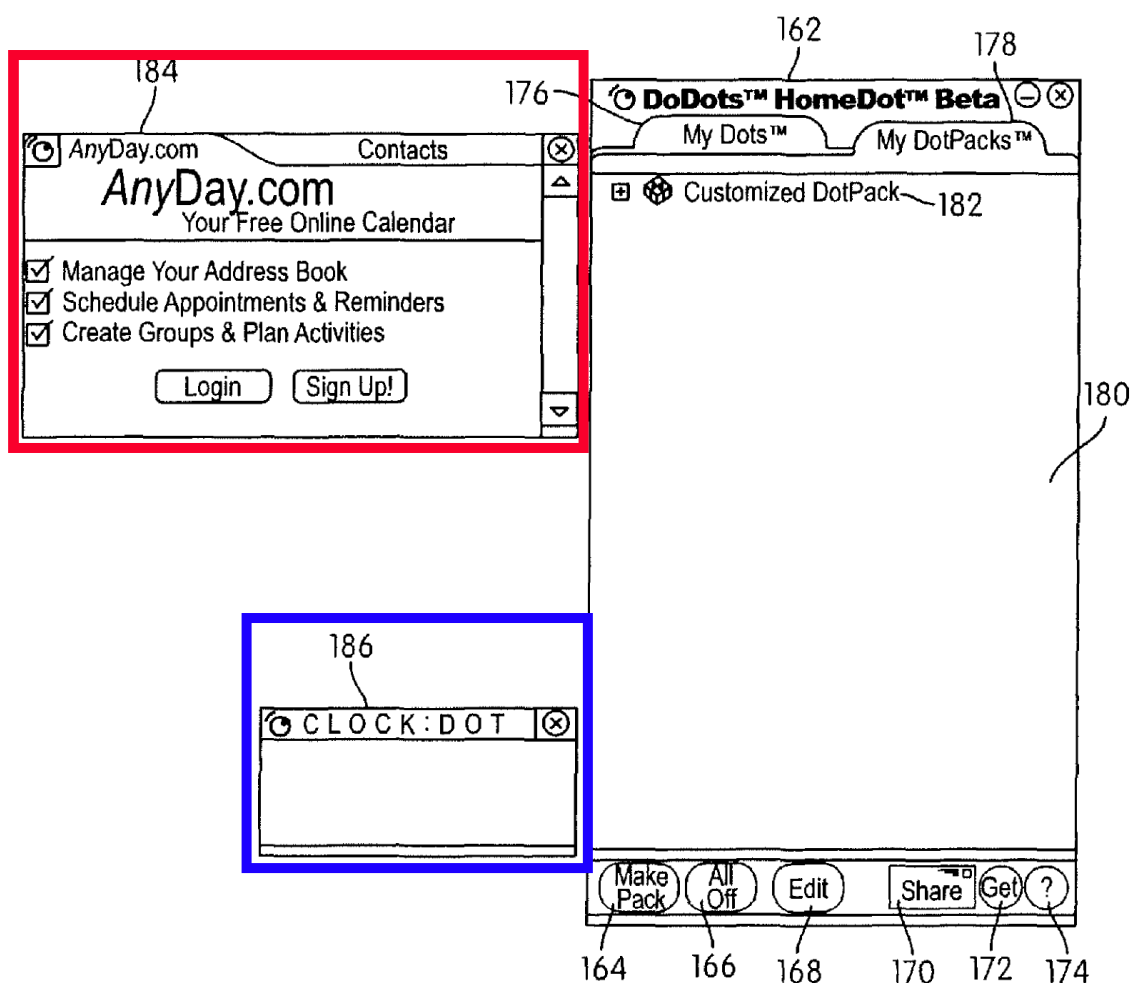


FIG. 4

'407 Patent, FIG. 4 (annotated).

The '407 Patent describes a method in which a NIM template, or NIM definition, is used to create a NIM, or frame, in which the user can view Internet content. '407 Patent, 2:59-65, 25:61-63, 26:2-4. The NIM template also indicates where to pull Internet content to fill in the NIM. '407 Patent, 20:24-30. Ultimately,

a client parser processes the information within the NIM template and generates the corresponding NIM. *Id.*

B. The '407 Patent's Prosecution

The application that resulted in the '407 Patent was filed on October 31, 2007, and was issued on August 13, 2013. '407 Patent (Ex.1001), (22), (45). The '407 Patent was a continuation of Application No. 09/558,922 which was filed on April 26, 2000, and further claims priority to several provisional applications the earliest of which was filed on April 26, 1999. '407 Patent, (60), 1:8-19. For this petition only, Petitioner applies April 26, 1999, as the priority date for the Challenged Claims.

The originally filed claims were first rejected in view of US Patent Nos. 5,375,199 ("Harrow") and 5,838,906 ("Doyle"). '407 FH, 975. In response, Applicant amended the two original claims, adding substantial limitations, and added 20 new claims. '407 FH, 957-62. Applicant emphasized certain limitations as points of novelty including that the GUI be "outside of any graphical user interface of any web browser application" and that the GUI be presented "without the utilization of any web browser application." '407 FH, 963-64. Applicant argued that such limitations made the '407 unique because the prior art taught a GUI presented "within a [GUI] of a web browser." *Id.*

In a second office action, the examiner rejected all claims based on various grounds including nonstatutory obviousness-type double patenting over U.S. Patent Application Nos. 11/932,392, 11/932,286, 11/932,427, 11/932,630, and 11/932,692. '407 FH, 941-42. The independent claims were further rejected under 35 U.S.C. § 112 for the negative limitations associated with “without ...a web browser” and “outside of...any web browser application[.]” The claims were additionally rejected as being obvious in view of Harrow and US Patent No. 6,101,510 (“Stone”). '407 FH, 946. The examiner explained that the limitations with respect to a “web browser” “[did] nothing to describe or detail the distinguishing feature of the claim” and “merely perform[ed] identical steps of web-based retrieval and display with a negative limitation.” '407 FH, 947.

In response, Applicant amended all claims and replaced the original specification with the specification of the parent application to the '407 Patent. '407 FH, 495-887. The amendments to the claims added specificity regarding “manual navigation” by modifying the limitation to include, “wherein the frame of the viewer graphical user interface lacks controls enabling a user to specify a network location at which content for the networked information monitor is available.” '407 FH, 498. Applicant also amended the claims with a limitation requiring that the GUI be presented “outside of and separate from any graphical user interface of any other application.” *Id.* Applicant explained that because Doyle presents the GUI in a web

browser and has a place for the user to enter a URL, and because Harrow teaches displaying content within a conventional web browser, neither rendered obvious the '407 Patent's claims. '407 FH, 508-510.

In response, the examiner found Applicant's arguments about Harrow and Doyle to be persuasive but still rejected the claims under nonstatutory obviousness type double patenting. '407 FH, 139-141. As a result, Applicant filed a terminal disclaimer. '407 FH, 121. A Notice of Allowance was subsequently issued on April 5, 2013. '407 FH, 107.

C. The *Advanced Bionics* Framework Favors Institution

Under the two-part *Advanced Bionics* framework applying the *Becton, Dickinson* factors, the Board should not exercise its discretion to deny institution under 35 U.S.C. § 325(d). Part one considers whether the same or substantially the same prior art or arguments were previously presented to the office. *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 (Feb. 13, 2020); *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8, 17-18 (Dec. 15, 2017). Here, although *Slivka* was cited in an IDS – along with over 150 other references – during prosecution of the '407 Patent, the examiner did not substantively discuss *Slivka* when evaluating the Challenged Claims. *See generally* '407 FH. Further, none of the secondary references cited herein were cited at all during prosecution of the '407 Patent and

were not relied upon by the examiner for any of the Challenged Claims. Therefore, the examiner did not consider the same or substantially the same art that Petitioner presents herein. *See generally* '407 FH.

Further, none of the art herein was presented in any other proceeding before the USPTO with respect to the '407 Patent. *See generally Samsung '407 IPR* (Ex. 1010); *also Lenovo '407 Final Written Decision* (Ex. 1008).

D. A Person of Ordinary Skill in the Art

A person of ordinary skill in the art ("POSITA") at the time of the '407 Patent would have had at least a bachelor's degree in computer science, computer engineering, or a related field, and at least two years of experience related to the design or development of Internet technologies, or the equivalent.¹ Additional graduate education could substitute for professional experience or significant experience in the field could substitute for formal education. *Dec.*² (Ex. 1003), ¶¶21-23.

¹ The Board has previously adopted a similar, though broader, definition of a POSITA in previous IPR proceedings for the '407 Patent. *Lenovo '407 Final Written Decision*, 8 (defining a POSITA as having "a bachelor's degree in Electrical or Computer Engineering, Computer Science, or a related field and have three years of corresponding industry work experience."). Petitioner's proposed definition of a POSITA herein is consistent with what was previously determined by the Board and adds further context for the definition of a POSITA.

² All citations to "Dec." are to paragraph numbers in Ex. 1003, Declaration of Dr. Loren Terveen.

III. REQUIREMENTS FOR IPR UNDER 37 C.F.R. § 42.104

A. Grounds for Standing Under 37 C.F.R. § 42.104(a)

Petitioner certifies the '407 Patent is available for IPR and Petitioner is not barred or estopped from requesting IPR challenging the claims of the '407 Patent. Petitioner is not the owner of the '407 Patent, has not filed a civil action challenging the validity of any claim of the '407 Patent, and this petition is filed less than one year after Petitioner was served with a complaint alleging infringement of the '407 Patent.

B. Identification of Challenges Under 37 C.F.R. § 42.104(b) and Relief Requested

In view of the prior art and evidence presented, the Challenged Claims of the '407 Patent are unpatentable and should be cancelled. 37 C.F.R. § 42.104(b)(1). Based on the prior art identified below, IPR of the Challenged Claims should be granted. 37 C.F.R. § 42.104(b)(2).

Proposed Grounds of Unpatentability	
<u>Ground 1</u>	Claims 1-4, 6-11, 13-16, and 18-23 are obvious under pre-AIA 35 U.S.C. § 103(a) over <i>Slivka</i> in view of <i>Powell</i>
<u>Ground 2</u>	Claims 5 and 17 are obvious under pre-AIA 35 U.S.C. § 103(a) over <i>Slivka</i> in view of <i>Powell</i> and <i>Votipka</i>
<u>Ground 3</u>	Claims 12 and 24 are obvious under pre-AIA 35 U.S.C. § 103(a) over <i>Slivka</i> in view of <i>Powell</i> and <i>Anabuki</i>

Sections V-VII identify where each element of the Challenged Claims is found in the prior art. 37 C.F.R. § 42.104(b)(4). The exhibit numbers of the supporting evidence relied upon to support the challenges are provided above, and

the relevance of the evidence to the challenges raised are provided in Sections V-VII. 37 C.F.R. § 42.104(b)(5). Exhibits 1001–1016 are also attached.

C. Claim Construction Under 37 C.F.R. § 42.104(b)(3)

In this proceeding, claims are interpreted under the same standard applied by Article III courts (*i.e.*, the *Phillips* standard). *See* 37 C.F.R. § 42.100(b); *see also* 83 Fed. Reg. 197 (Oct. 11, 2018); *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (*en banc*). Under this standard, words in a claim are given their plain and ordinary meaning as understood by a POSITA in view of the patent and file history. *Phillips*, 415 F.3d at 1312-13. Petitioner submits that all terms not expressly construed below be given their plain and ordinary meaning consistent with the *Phillips* standard. Petitioner does not waive any argument in any litigation that claim terms in the '407 Patent are indefinite or additional terms need construction.

In a previous IPR proceeding for the '407 Patent, the asserted prior art taught Java applets (small applications written in Java). Patent Owner (“PO”) argued that the claimed templates (“NIM templates”) of the '407 Patent exclude compiled code or executable applications, such as those contemplated by Java applets. Ultimately the PTAB, later affirmed by the Federal Circuit, agreed with PO, and determined the following constructions:

“NIM” – “a fully configurable frame with one or more controls, through which content is presented to the user[.]”

“NIM template” – “data structure which defines the characteristics of a NIM, including the NIM frame, view and control characteristics, and which excludes executable applications/compiled code.”

Lenovo ’407 Final Written Decision, (Ex. 1008), 10-20; *Federal Circuit Claim Construction*, (Ex. 1009), 4-5, 9.

For purposes of the present petition, Petitioner submits the above constructions—consistent with previous determinations by the Board and the Federal Circuit—to aid in interpreting the terms “NIM” and “NIM template” as used in the Challenged Claims. Further, Petitioner asserts prior art that is consistent with the aforementioned constructions.

In parallel litigation, other than the above constructions, PO largely advocates that the claim terms should be given their plain and ordinary meanings.³ *Joint Claim Construction Statement* (Ex. 1016) Dkt. 98, 2-3. For the purposes of this proceeding only, Petitioner proposes the Board adopt PO’s proposal. *See Western Digital Corporation v. Spex Technologies, Inc.*, IPR2018-00084, Paper 14, *11 (PTAB Apr. 25, 2018); *see also General Electric v. Vestas*, IPR2018-00928, Paper 9, *16-17 (PTAB Nov. 5, 2018).⁴

³ PO proffers two constructions of “frame.” (Ex. 1016), 2. The proposed grounds herein satisfy these constructions as Petitioner understands them from PO’s briefing. Additionally, the Parties advance similar proposed constructions of “web browser readable language” with Petitioner’s proposal including examples. The art below satisfies at least PO’s interpretation.

⁴ Petitioner reserves the right in other proceedings to construe the Challenged Claims and to argue they are indefinite.

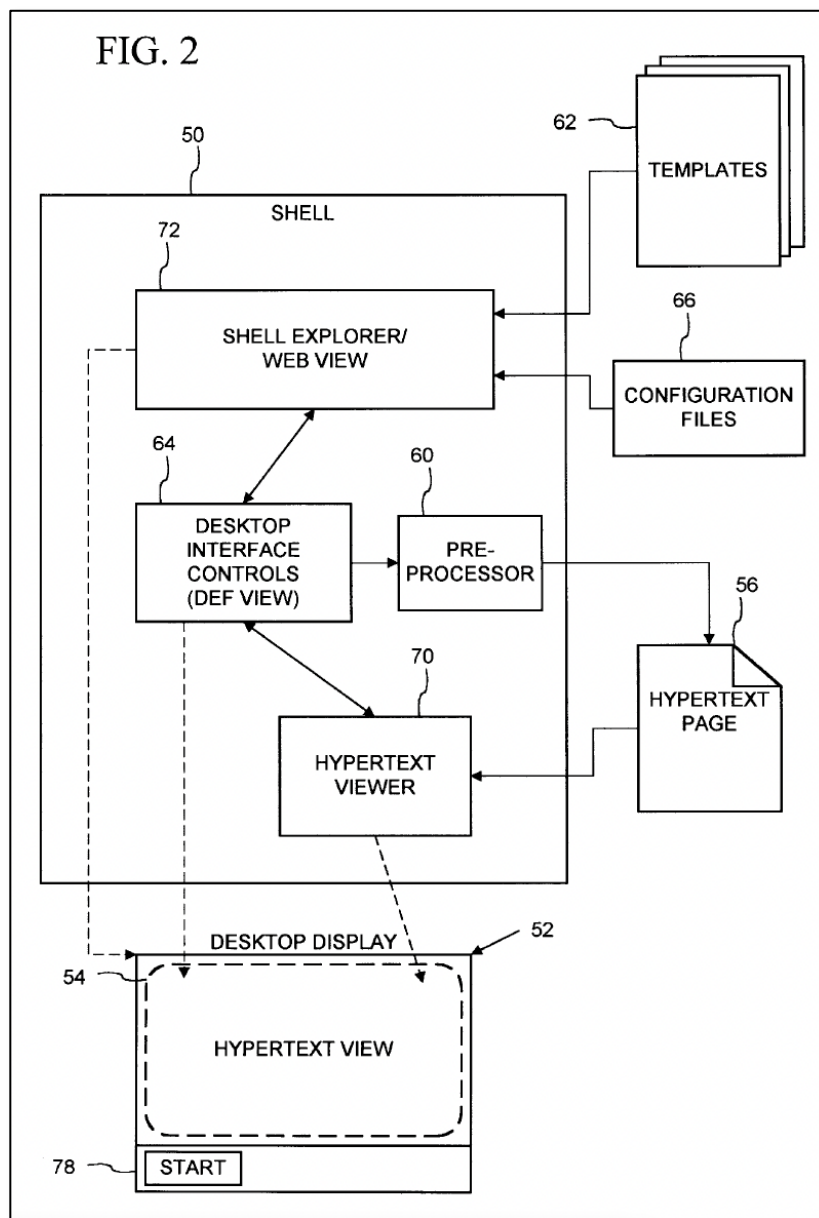
IV. PRIOR ART

A. Overview of Slivka

U.S. Patent No. 6,061,695 to Slivka, et al. (“*Slivka*”) was cited but not substantively considered during prosecution of the ’407 Patent. *See generally* ’407 *FH*. *Slivka* was filed December 6, 1996, and issued May 9, 2000, qualifying as prior art at least under 35 U.S.C. § 102(e) (pre-AIA). *Slivka* (Ex. 1004), (22), (45). *Slivka*’s specification incorporates several appendices stamped with the filing date, December 6, 1996. *Slivka FH* (Ex. 1005), 69-245. Consistent with MPEP § 2136.02 and 35 U.S.C. § 102(e) (pre-AIA), “**the entire disclosure** of a U.S. patent...can be relied on to reject the claims.” *Sun Studs, Inc. v. ATA Equip. Leasing, Inc.*, 872 F.2d 978, 983, 10 USPQ2d 1338, 1342 (Fed. Cir. 1989) (emphasis added). *See also* MPEP § 2120.01. As such, *Slivka*’s appendices qualify as prior art at least under 35 U.S.C. §102(e) (pre-AIA).

In general, *Slivka* teaches computer system 20 has a “shell 50 for an operating system of the computer 20” that “provides a graphical user interface for a user of the computer to interact with the operating system.” *Slivka*, 5:59-62. *Slivka* teaches the graphical user interface includes a “desktop display 52 presented on a video screen of the computer’s output device 30 ... The desktop display 52 preferably is presented by the shell in a windowing environment as a full-screen background display.”

Slivka, 5:63-66, 6:4-38, 6:54-67, 10:7-39. FIG. 2 below depicts *Slivka*'s shell 50 and desktop display 52:



Slivka, FIG. 2.

More specifically, *Slivka*'s shell 50 “synthesizes hypertext pages...which can be edited to incorporate a variety of multi-media enhancements with the user

interface elements in the graphical user interface.” *Slivka*, 4:3-15, Abstract. Examples of multi-media enhancements include “HTML frames, tables, fonts, hypertext links, embedded images, embedded sounds, embedded objects, and others.” *Slivka*, 20:16-21. Further, shell 50 also “displays and navigates between other hypertext documents such as those available from the Internet.” *Slivka*, 4:27-33.

Slivka teaches an example of a hypertext page for an entire desktop. *Slivka*, 3:14-19. The hypertext page contains sets of HTML instructions such that when a single hypertext page is processed, the resulting display contains several HTML frames that collectively fill the entire user desktop on the display device. *Id.*, 3:26-30. Within the display, independent frames of content are presented. *Slivka*, FIG. 6, 18:49-19:6; *Slivka FH*, 69 (defining separate frames for “tickerframe,” “icons,” and “infopane.”). Each frame is defined by a set of HTML instructions within the larger synthesized hypertext page. *Slivka FH*, 69-77; *Dec.*, ¶¶30-35, 46-50 (explaining the structure of the exemplary hypertext page). In other words, each set of HTML instructions contains necessary information to generate the corresponding frame and content for said frame. *Id.* The sets of HTML instructions comprise

various sources of HTML elements including “templates” and “HTML format files.”

Slivka, 3:31-34, 18:52-67; *Dec.*, ¶¶46-50.⁵

For example, *Slivka*’s exemplary synthesized hypertext page that is parsed into a final display incorporates HTML elements from “a ‘Desktop.htm’ template,..., a ‘Dsk_1.htm’ template which are listed in the attached Appendices A and B, respectively[,] and “additionally incorporates data from the HTML format files, ‘Infopane.htm,’ ‘news.htm,’ ‘ticker.htm,’ and ‘tickhost.htm’ which are listed in the attached Appendices C through F, respectively.” *Slivka*, 18:52-65; *Dec.*, ¶¶46-50, 60-71. More specifically, in *Slivka*’s exemplary hypertext page, a set of HTML instructions that defines a ticker frame includes HTML elements from ticker.htm and tickhost.htm. *Slivka FH*, 69, 76-77; *Dec.* ¶¶46-50, 60-71. Similarly, a set of HTML instructions that defines a news pane frame includes HTML elements from news.htm and infopane.htm. *Slivka FH*, 69, 72-75; *Dec.* ¶¶46-50, 60-71. Figure A, below, illustrates the incorporation of HTML elements for each set of HTML instructions within the larger synthesized hypertext page.

⁵ A POSITA would have understood that *Slivka*, 18:49 which recites “FIG. 5” is a typographical error and should read “FIG. 6.” *Dec.*, ¶48.

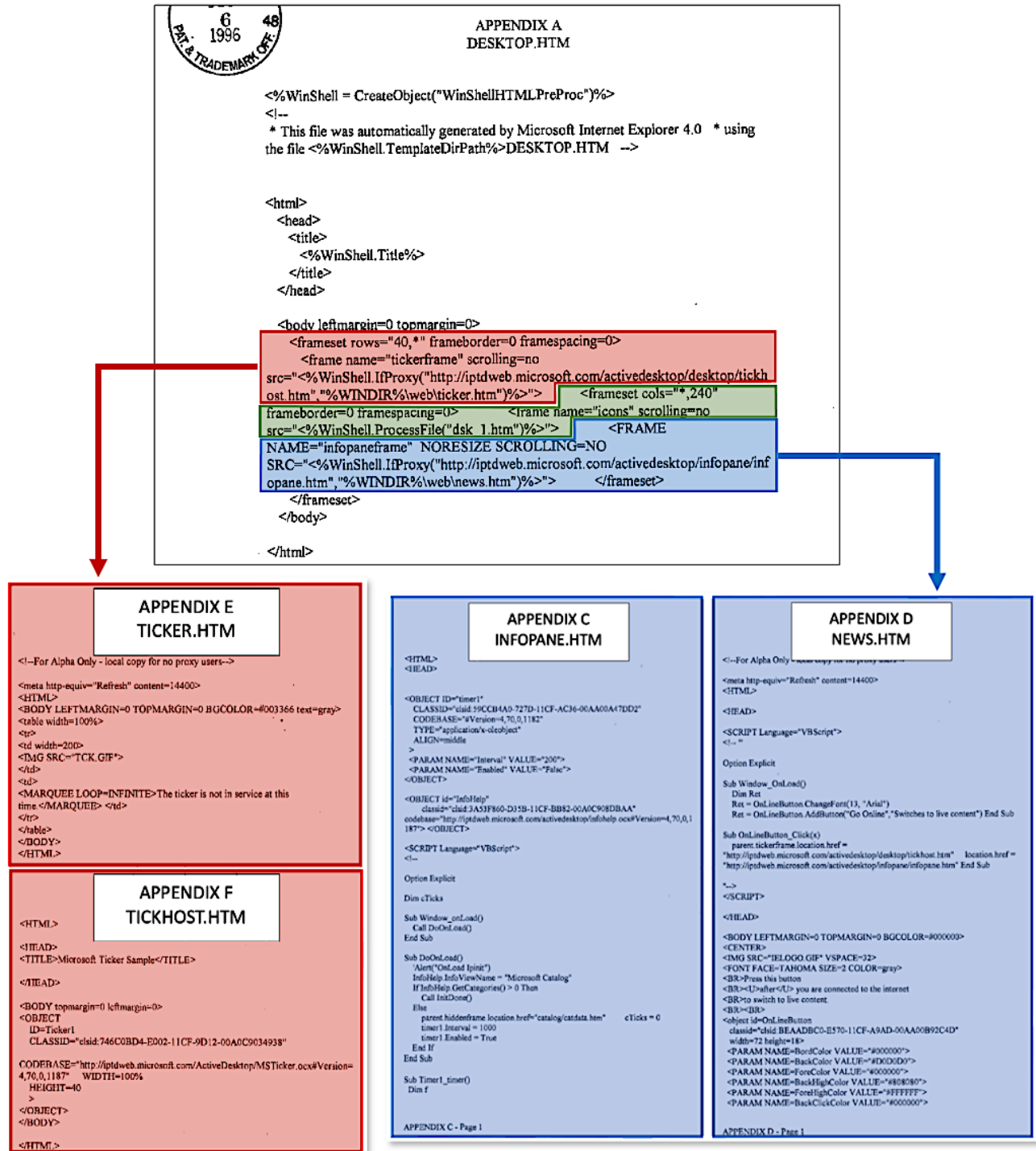
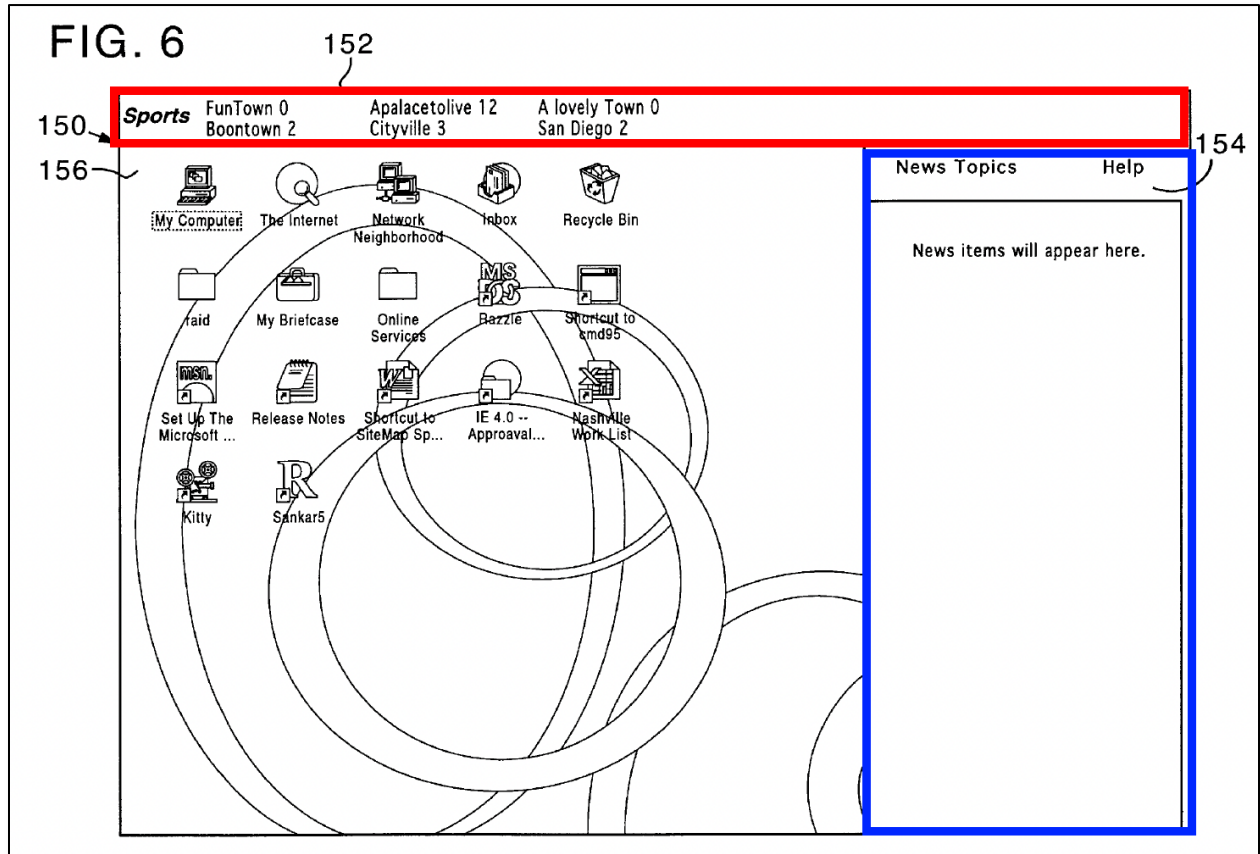


Figure A

Slivka FH, 69, 72-77 (excerpt, annotated); Dec., ¶¶46-50, 60-71.

Specifically, the set of HTML instructions incorporating HTML elements from Appendices C and D for the news pane frame is shown in blue, and the set of

HTML instructions incorporating HTML elements from Appendices E and F for the ticker frame is shown in red. The HTML elements from Appendices C-D, and Appendices E-F contribute to a full set of HTML instructions for the news pane frame and the ticker frame, respectively, outlining parameters for each frame in the hypertext page display. *Slivka*, 18:49-67; *Slivka FH*, 69; *Dec.*, ¶¶46-50, 60-71. Shell 50, upon processing the synthesized hypertext page, parses each set of HTML instructions to generate a frame within which content is presented to the user. *Slivka*, 18:65-67; *Dec.*, ¶¶46-50, 60-71. FIG. 6, below, illustrates the final display, with ticker 152 HTML frame (red) corresponding to the set of HTML instructions in red from Figure A and news pane 154 HTML frame (blue) corresponding to the set of HTML instructions in blue from Figure A:



Slivka, FIG. 6 (annotated).

Both *Slivka* and the '407 Patent are directed to systems and methods for presenting Internet content to a user. *Compare Slivka*, Abstract, 11:54-65, 18:49-19:18, FIG. 6, with '407 Patent, Abstract, 2:59-65, 5:19-28. As such, *Slivka* is in the same field of endeavor as the '407 Patent. *Dec.*, ¶¶46-50.

Additionally, because *Slivka*, like the '407 Patent, is directed to the problem of enhancing a graphical user interface, *Slivka* is reasonably pertinent to a problem described by the '407 Patent. *Compare Slivka*, 3:14-16, 11:54-65, 18:49-19:17, FIG. 6, with '407 Patent, Abstract, 2:59-3:3, 5:19-28; *Dec.*, ¶¶46-50.

Therefore, *Slivka* is analogous art to the '407 Patent.

B. Overview of Powell

HTML: The Complete Reference Guide by Powell ("*Powell*") was neither cited nor considered during prosecution of the '407 Patent. *See generally* '407 FH. *Powell* lists a copyright date of 1998. *Powell* (Ex. 1013), 3. *Powell* is a true and correct copy and was publicly available no later than September 17, 1998. *Munford Dec.* (Ex. 1007), ¶¶1-11. *Powell* qualifies as prior art under at least 35 U.S.C. § 102(a) (pre-AIA).

Both *Powell* and the '407 Patent are directed to systems and methods for presenting Internet content to a user. *Compare Powell*, 58, 62, 152-156, 164-167, 174-178, *with* '407 Patent, 2:59-65. As such, *Powell* is in the same field of endeavor as the '407 Patent. *Dec.*, ¶¶53-54.

Further, both *Powell* and the '407 Patent recognize the challenges with utilizing markup language to specify frame characteristics, such as color, size, and position on a display; therefore, *Powell* is reasonably pertinent to a problem described by the '407 Patent. *Compare Powell*, 174-184, 245-250, 255-256, 260-262, 267-268, 336, 361-362, 372-376, *with* '407 Patent, 21:45-60; *Dec.*, ¶¶53-54.

Therefore, *Powell* is analogous art to the '407 Patent.

C. Overview of Votipka

U.S. Patent No. 6,185,589 to Votipka (“*Votipka*”) was neither cited nor considered during prosecution of the ’407 Patent. *See generally* ’407 FH. *Votipka* was filed July 31, 1998, qualifying as prior art under at least 35 U.S.C. § 102(e) (pre-AIA). *Votipka* (Ex. 1014), (22).

Votipka teaches visual banners implemented in hypertext markup language (HTML) that allows web designers to utilize automatically sized banners that can be reused for different window widths without requiring a separate banner for each width. *Votipka*, 2:66-3:7, 3:21-23. Both *Votipka* and the ’407 Patent are directed to systems and methods for presenting Internet content to a user. *Compare Votipka*, 1:44-60, 2:65-3:7, with ’407 Patent, 2:59-65. As such, *Votipka* is in the same field of endeavor as the ’407 Patent. *Dec.*, ¶¶55-56.

Further, both *Votipka* and the ’407 Patent recognize the challenges with displaying Internet content to users and enhancing a graphical user interface, and therefore, *Votipka* is reasonably pertinent to a problem described by the ’407 Patent. *Compare Votipka*, 1:44-60, 2:1-41, 2:65-3:7, with ’407 Patent, Abstract, 2:59-3:3, 5:19-28; *Dec.*, ¶¶55-56.

Therefore, *Votipka* is analogous art to the ’407 Patent.

D. Overview of Anabuki

U.S. Patent No. 6,091,518 to Anabuki (“*Anabuki*”) was neither cited nor considered during prosecution of the ’407 Patent. *See generally* ’407 FH. *Anabuki* was filed June 25, 1997, qualifying as prior art under at least 35 U.S.C. § 102(e) (pre-AIA). *Anabuki* (Ex. 1006), (22).

Anabuki teaches a cache storage technique for HTML documents received from a server. *Anabuki*, 9:65-67, 10:4-6. Both *Anabuki* and the ’407 Patent are directed to systems and methods for presenting Internet content to a user. *Compare Anabuki*, 10:4-13, 11:54-12:24, 13:17-19, FIG. 4, *with* ’407 Patent, 2:59-65. As such, *Anabuki* is in the same field of endeavor as the ’407 Patent. *Dec.*, ¶¶51-52.

Further, both *Anabuki* and the ’407 Patent recognize the challenges with displaying Internet content to users and enhancing a graphical user interface, and therefore, *Anabuki* is reasonably pertinent to a problem described by the ’407 Patent. *Compare Anabuki*, 10:4-13, 11:54-12:24, 13:17-19, Fig. 4, *with* ’407 Patent, Abstract, 2:59-3:3, 5:19-28; *Dec.*, ¶¶51-52.

Therefore, *Anabuki* is analogous art to the ’407 Patent.

V. GROUND 1: CLAIMS 1-4, 6-11, 13-16, AND 18-23 ARE OBVIOUS OVER *SLIVKA* IN VIEW OF *POWELL*

The Challenged Claims utilize data structure templates to generate unique frames – different than a browser – within which content is presented to users. *Slivka*

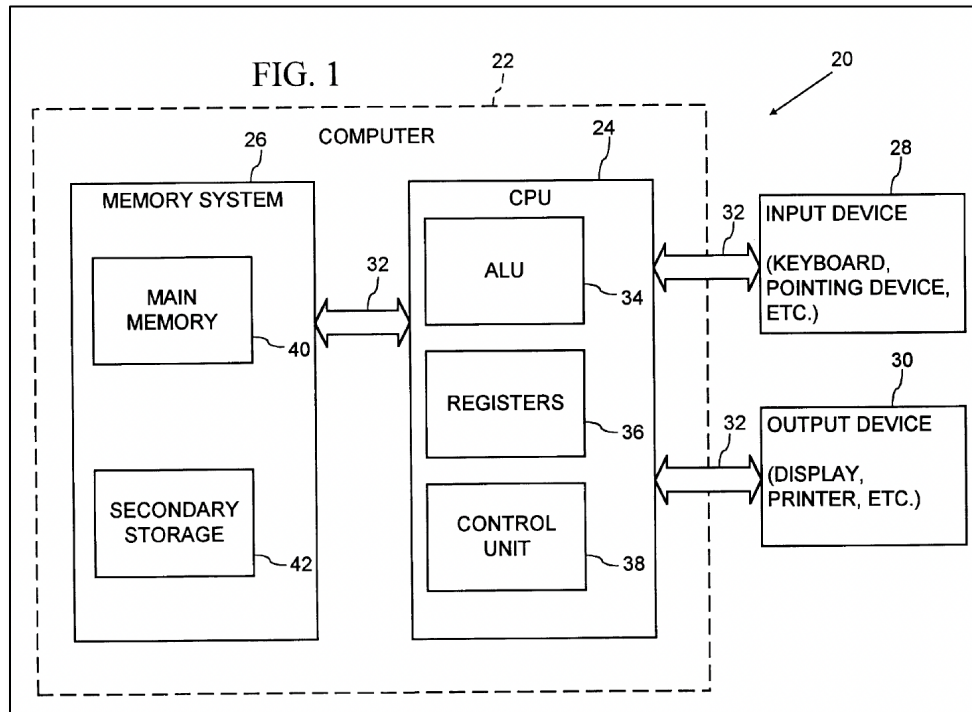
teaches precisely this concept through its sets of HTML instructions and corresponding HTML frames.

Although *Slivka* does not expressly describe a few specific aspects of generating an HTML frame, the missing features were well-known and commonplace in the art. In particular, *Slivka* teaches that its frames are populated with content pulled from the Web, but does not expressly describe including a content reference in its sets of HTML instructions. *Powell* establishes that HTML instructions commonly used URLs as content references—the implementation detail missing from *Slivka*. As described in detail below, a POSITA would have been motivated to implement *Slivka* with content references pursuant to *Powell*. Further, *Slivka* teaches various visual characteristics but fails to teach a few very specific types of characteristics required by the some of the Challenged Claims. However, such characteristics (e.g., controls for the size or location of a frame) were well-known in HTML as taught by *Powell*. As described in detail below, a POSITA would have been motivated to implement *Slivka* with such HTML improvements pursuant to *Powell*.

A. Claim 1(Pre): A client computing device configured to access content over a network, the client computing device comprising:

To the extent the preamble is limiting, *Slivka* teaches a computer system 20 (“client computing device”) including a computer 22. *Slivka*, 4:63-5:2, *generally* 5:3-57. *Slivka* teaches that computer system 20 includes input device 28 and output

device 30, where “devices, such as a **network interface or a modem**, can be used as input and/or output devices.” *Slivka*, 5:29-31 (emphasis added). *Slivka*’s FIG. 1 below depicts computer system 20, including computer 22, input device 28, and output device 30:



Slivka, FIG. 1.

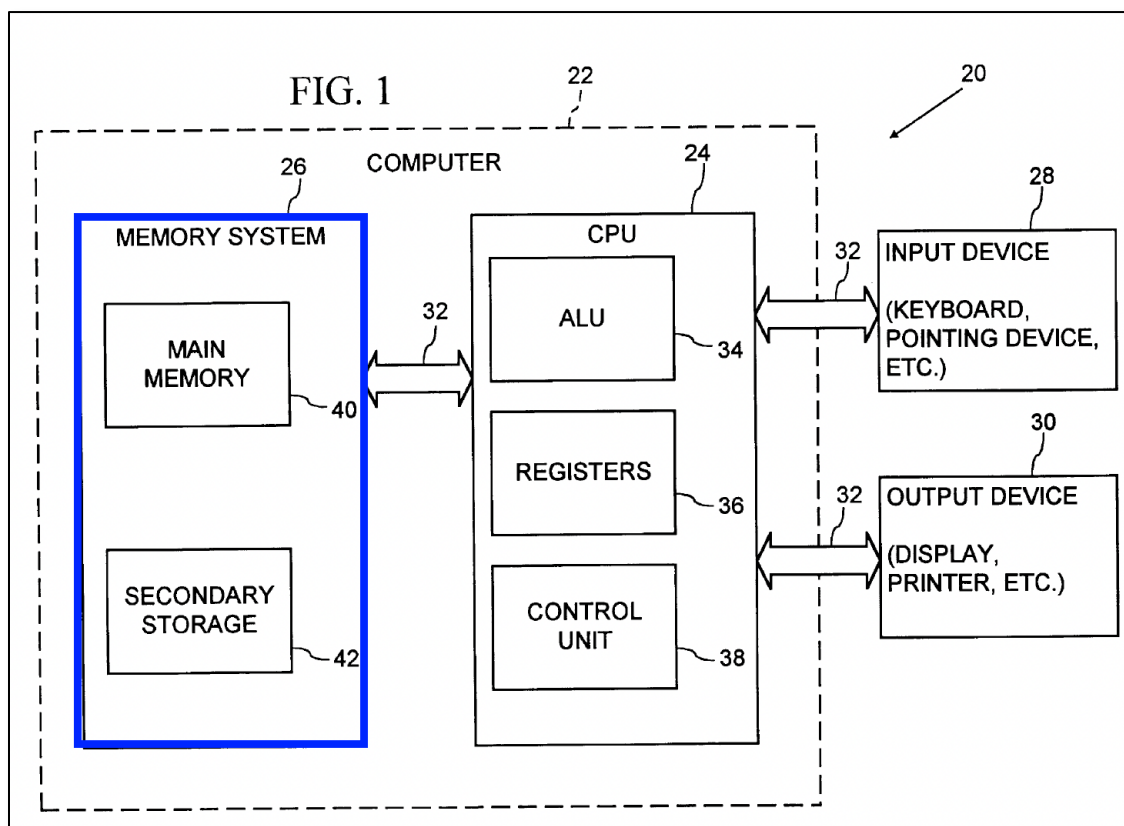
Slivka further teaches computer system 20 includes hypertext markup language (HTML) frames that retrieve “HTML format information [] from the Internet[.]” *Slivka*, 19:1-11. A POSITA would therefore have understood that *Slivka*’s computer system 20 is a client computing device, as claimed, including because said computer system is configured to access content from at least one server over a network (i.e., Internet). *Dec.*, ¶¶57-59.

B. Claim 1(a): electronic storage configured to store networked information monitor template associated with a networked information monitor, the networked information monitor template having therein a definition of a viewer graphical user interface having a frame within which time-varying content in a web browser-readable language may be presented on a display associated with the client computing device, wherein the frame of the viewer graphical user interface lacks controls for enabling a user to specify a network location at which content for the networked information monitor is available; and

Slivka teaches Claim 1(a).

1. Electronic Storage

Slivka teaches that computer system 20 includes memory system 26 comprising main memory 40 and secondary storage 42. *Slivka*, 4:63-67 (“computer system 20 ... comprises at least one high speed processing unit (CPU) 24, in conjunction with a memory system 26[.]”), 5:12-24. *Slivka* further teaches that computer system 20 “includes an operating system and at least one application program” and that both “are resident in the illustrated memory system 26.” *Slivka*, 5:32-57 (teaching computer-executed operations). Thus, a POSITA would have understood that *Slivka* stores an operating system, application programs, and other electronic information locally in memory system 26. *Dec.*, ¶¶60-62. Annotated FIG. 1 below depicts memory system 26 (blue) of computer system 20:



Slivka, FIG. 1 (annotated). *Slivka*'s teachings regarding being configured to store a claimed NIM template in electronic storage are discussed below. *See infra* Section V.B.5.

2. *NIM Template and Associated NIM*

As discussed above, networked information monitor (“NIM”) template was construed as a “data structure which defines the characteristics of a NIM, including the NIM frame, view and control characteristics, and which excludes executable applications/compiled code.” *See supra* Section III.C. Further, a NIM was construed as “a fully configurable frame with one or more controls, through which content is presented to the user[.]” *Id.* In other words, the claimed NIM templates are data

structures that provide necessary information to create a corresponding frame (NIM) through which content is presented to a user. As discussed in detail below, *Slivka* teaches multiple sets of HTML instructions that are data structures which provide necessary information to create corresponding HTML frames through which content is provided to a user. As such, Petitioner maps *Slivka*'s sets of HTML instructions as the claimed NIM templates and *Slivka*'s HTML frames as the claimed NIMs.

As discussed above in Section IV.A, *Slivka* teaches synthesized hypertext pages comprising sets of HTML instructions that are parsed into different HTML frames presented in a graphical user interface (GUI) to a user. *Slivka*, 3:16-19, Abstract; *see also Slivka FH*, 69-77; *also* Section IV.A (discussing how multiple sets of HTML instructions are synthesized into a hypertext page to be converted into the GUI). The sets of HTML instructions in *Slivka*'s hypertext documents include “multi-media enhancements, such as text, graphics, sounds, animations, video, hypertext links, etc.” which allow customization of the appearance of the desktop. *Slivka*, 3:19-26. More specifically, and as discussed in further detail below in subsequent sections, *Slivka*'s sets of HTML instructions within its hypertext pages include all necessary parameters to generate HTML frames presented to the user through a GUI.

Slivka teaches that shell 50 parses the sets of HTML instructions in the hypertext pages and displays the corresponding frames in a GUI. *Slivka*, 3:26-30,

18:65-67. Different HTML frames (NIMs) displaying different content are presented based on the information contained within the sets of HTML instructions. *Slivka*, 18:49-67; *Dec.*, ¶¶63-68. Each set of HTML instructions corresponds to and contains necessary information to generate an HTML frame within which content is presented to a user. *Slivka*, 18:49-19:18; *Dec.*, ¶¶63-68. As such, for each frame, the corresponding set of HTML instructions constitutes a NIM template and the frame itself constitutes a NIM. *Dec.*, ¶¶63-68.

Slivka's exemplary hypertext page and corresponding display contains several sets of HTML instructions that represent a plurality of different frames within the display. *Slivka*, 18:49-19:18, FIG. 6; *see also supra* Section IV.A. More specifically, *Slivka*'s exemplary hypertext page includes one set of HTML instructions for each of a plurality of such HTML frames ("NIMs"): (1) news pane 154, and (2) ticker 152, each of which present information retrieved from the Internet in independent frames. *Slivka*, 9:4-10. Thus, *Slivka* teaches "NIM templates" (a set of HTML instructions for each HTML frame) that correspond to a "NIM" (HTML frame). Additional details about *Slivka*'s sets of HTML instructions and HTML frames are discussed in subsequent sections.

a) *Slivka's Sets of HTML Instructions (NIM Templates)*

Slivka's sets of HTML instructions within its hypertext pages are "data structure[s] which define[] the characteristics of a NIM, including the NIM frame,

view and control characteristics, and which excludes executable applications/compiled code.” See *supra* Section III.C (describing the claim construction for “NIM template”). More specifically, *Slivka*’s sets of HTML instructions are data structure(s) that define the characteristics of *Slivka*’s HTML frames (“NIMs”) including view characteristics. *Slivka*, 20:16-21; *Dec.*, ¶¶69-76 (discussing data structures).

Further, regarding “controls” and “control characteristics,” *Slivka* teaches the set of HTML instructions for HTML frame news pane 154 includes controls such as a help button and “OnLineButton” for switching to live content as well as characteristics of said controls (e.g., color, size, position in the HTML frame). *Slivka*, FIG. 6; *Slivka FH*, 72-75; *Dec.*, ¶¶69-76. Thus, *Slivka*’s set of HTML instructions for news pane 154 teaches the claimed “controls” and “control characteristics” with respect to the NIM templates.

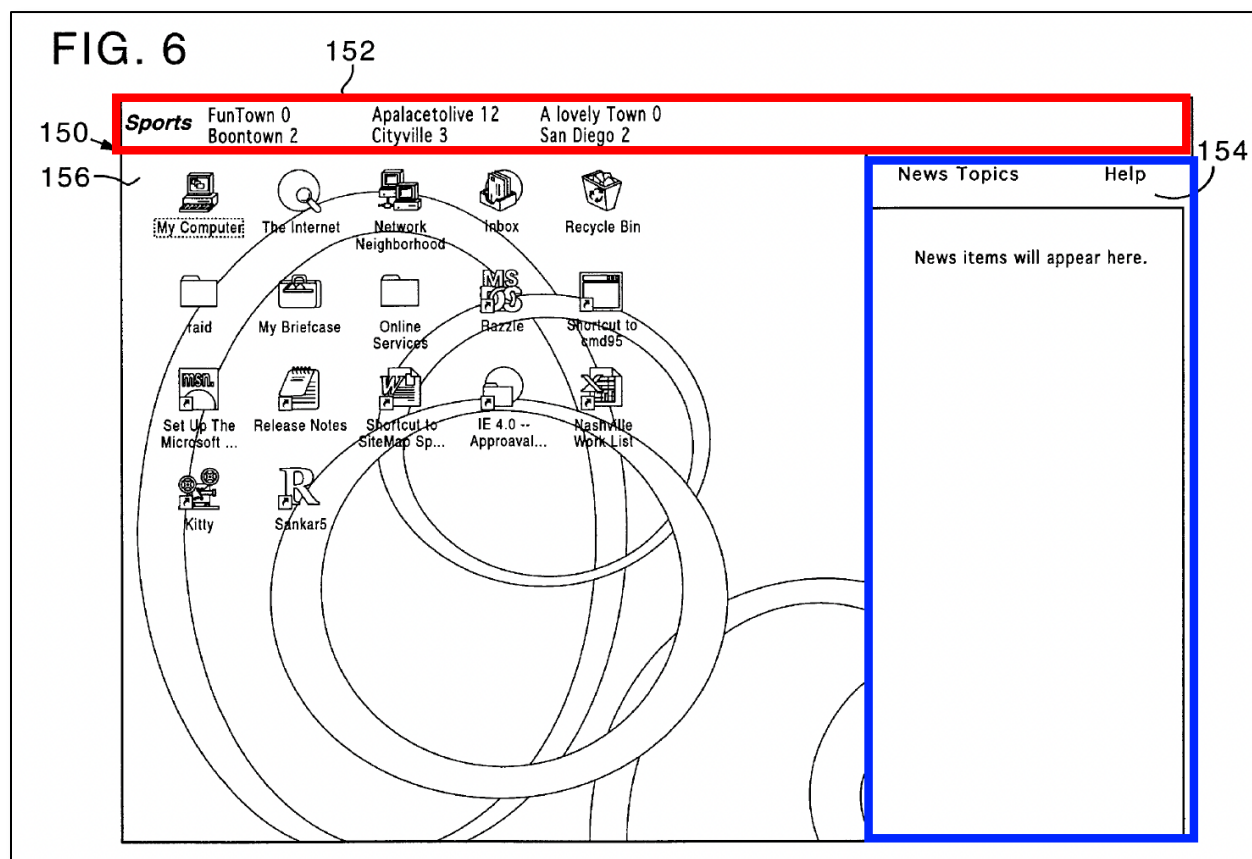
Regarding “exclud[ing] executable applications/compiled code,” *Slivka*’s sets of HTML instructions within its hypertext page is in HTML format, and a POSITA would have understood that HTML format instructions exclude executable applications/compiled code because HTML is a markup language and not compiled code/executable applications. *Dec.*, ¶¶69-76. Of note, *Slivka*’s HTML instructions include references to Active-X controls. While Active-X controls are compiled, the

references themselves are not. *Dec.*, ¶¶69-76.⁶ Thus, *Slivka*'s HTML instructions—the mapped NIM templates—do not include “compiled code” or “executable application(s).”

b) *Slivka*'s HTML Frames (NIMs)

Slivka's HTML frames are “fully configurable frame[s] with one or more controls, the frame[s] through which content is presented to the user.” For example, *Slivka*'s exemplary hypertext desktop view 150 has separate HTML frames (i.e., areas on an HTML page) for a ticker 152, a news pane 154, and desktop icons frame 156.” *Slivka*, 19:1-7. Said ticker 152 (red) and news pane 154 (blue) are depicted in FIG. 6 below:

⁶ *Slivka*'s HTML instructions also include VBScript, but VBScript is neither compiled code nor an executable application. *Slivka FH*, 72-75 (Appendices C and D); *Dec.*, ¶75.



Slivka, FIG. 6 (annotated).

Slivka further teaches that “[n]ews pane 154 also presents HTML format information retrieved from the web, such as images and text relating to news events.” *Slivka*, 19:7-11. A POSITA would have understood that *Slivka*’s news pane 154 HTML frame meets the claimed “networked information monitor” because it is a fully configurable frame through which content in a web browser-readable language (e.g., HTML) is displayed. *Dec.*, ¶¶30-35, 77-81 (explaining that HTML is a web browser-readable language). In particular, *Slivka*’s HTML frames are built from HTML elements within the corresponding set of HTML instructions. *Slivka*, 18:49-

19:11, 20:35-37, 11:54-65, 12:36-40, 6:20-26. *Slivka* explains that its HTML instructions “can be edited to incorporate a variety of multi-media enhancements with the user interface elements in the graphical user interface.” *Slivka*, 4:4-15, Abstract. *Dec.*, ¶¶77-79. A POSITA would have therefore understood *Slivka*’s news pane 154 HTML frame to be fully configurable (e.g., specifying colors, size, position, embedded controls). *Dec.*, ¶¶77-79.

3. *Time-Varying Content*

A POSITA would have understood news pane 154 presents content that is time-varying because *Slivka*’s exemplary HTML instructions for the news pane (Appendix D) include a “‘Refresh’ content” instruction:

```
<meta http-equiv="Refresh" content=14400>  
<HTML>
```

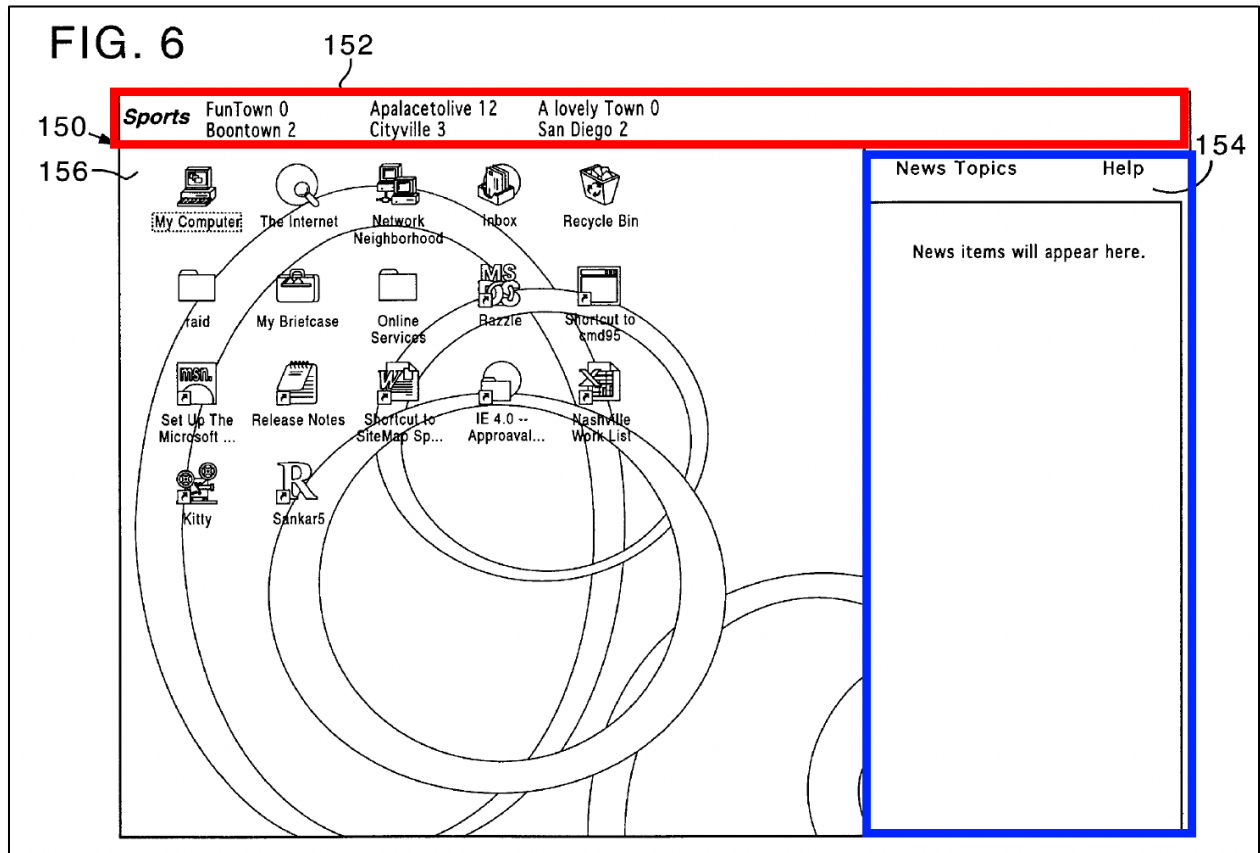
Slivka FH, 74 (excerpt). Indeed, a POSITA would have understood or found obvious that *Slivka*’s news content would have refreshed periodically to provide current news content. *Dec.*, ¶¶80-81.

4. Lacks Controls for Enabling a User to Specify a Network Location

Slivka teaches a definition of a GUI of an HTML frame (“NIM”) that lacks controls for manually navigating a network.⁷ Here, not only does *Slivka*’s set of HTML instructions for news pane 154 exclude HTML elements for controls enabling a user to specify a network location controls to be presented in the HTML frame, but *Slivka*’s news pane 154 HTML frame demonstrates no ability for the user to specify a network location. A POSITA would have understood that if such instructions were present in the set of HTML instructions, controls enabling a user to specify a network location would be presented in the frame. *Dec.*, ¶¶82-84. However, here, since no control to specify a network location is shown, a POSITA would understand that no such controls exist in the set of HTML instructions. *Dec.*, ¶¶82-84. In fact, none of *Slivka*’s sets of HTML instructions encompass any sort of

⁷ While silence, in the sense of not being able to tell one way or the other whether a negative limitation is taught, is not by itself sufficient for a petitioner to meet its burden to prove a negative limitation, when a reference does not suggest the negative limitation, there is a basis for finding the reference does not teach the negative limitation. *Compare IBM Corp. v. Iancu*, 2018-1065, at *15 (slip op.) (Apr. 1, 2019) (nonprecedential) with *AC Techs. S.A. v. Amazon.com, Inc.*, 912 F.3d 1358, 1367 (Fed. Cir. 2019) (precedential) (“Contrary to AC’s suggestion, a reference need not state a feature’s absence in order to disclose a negative limitation.”) and *Sud-Chemie, Inc. v. Multisorb Techs., Inc.*, 554 F.2d 1001, 1004-05 (Fed. Cir. 2009) (precedential) (finding that although the claim construction required a film “uncoated with an adhesive,” because the reference taught adhering films and sheets together by heat sealing “with no indication that the process contemplates the use of adhesive coatings on the films,” the reference met the negative limitation.).

controls for enabling a user to specify a network location. *See generally Slivka FH*, 69-77. As shown in FIG. 6 below, neither of *Slivka*'s exemplary ticker 152 or news pane 154 HTML frames include a field for URL entry nor any other type of control for enabling a user to specify a network location:



Slivka, FIG. 6 (annotated).

A POSITA would have understood that *Slivka*'s news pane 154 HTML frame retrieves content from the network location(s) referenced in its corresponding set of HTML instructions and not through controls enabling a user to specify a network location. *Dec.*, ¶¶82-84; *see infra* Claim 1(b)(i) (discussing the claimed content

elements referencing network locations for content to be presented in the NIM). Further, a POSITA would have understood that *Slivka*'s HTML frames do not function as a conventional Internet browser and lack controls for specifying a network location. *Dec.*, ¶¶82-84 (discussing how *Slivka*'s operation does not rely on traditional browser software, nor does it disclose HTML frames that allow a user to specify a network location.)

5. *Electronic Storage Configured to Store NIM Template*

When presenting the HTML frames to the user, *Slivka*'s shell 50 can either parse sets of HTML instructions directly from a stored hypertext page or process and synthesize a hypertext page from “templates” and other HTML format files. *Slivka*, 6:53-67. In either scenario, *Slivka* teaches “storing a plurality of NIM templates defining a plurality of NIMs.”

As discussed above, *Slivka* teaches storing an operating system, at least one application program, and other information locally in memory system 26. *See supra* Section V.B.1; *Dec.*, ¶¶60-62, 85-88. In one embodiment, *Slivka* teaches storing hypertext pages comprising sets of HTML instructions locally in memory. *Slivka*, 20:25-30 (“[T]he hypertext page for each display is stored and identified in the configuration files 66.”). *Slivka* teaches such configuration information is stored locally in the system registry:

The template (or alternatively stored hypertext page) associated with a folder (whether an actual file system directory or virtual folder) also can be identified by entries in a global configuration file, which in the illustrated shell 52 is the system registry. In the Microsoft® Windows® operating system, the system registry is a database which stores configuration information for the operating system[.]

Slivka, 9:24-32, 10:7-9 (“The shell 50 determines the template (or stored hypertext page) to use in synthesizing the view of a particular folder from this information in the configuration files 66.”). A POSITA would have understood that configuration files, including system registry, would have been stored locally in memory system 26 of computer system 20. *Dec.*, ¶¶60-62, 85-88. Therefore, a POSITA would have understood that *Slivka*’s stored hypertext pages, containing sets of HTML instructions (NIM templates), were also stored in memory system 26 (“electronic storage”) of computer system 20 like the operating system and at least one application program. *Id.*

In another embodiment, *Slivka*’s system synthesizes a hypertext page (rather than using the stored hypertext pages) to display the corresponding HTML frames by synthesizing sets of HTML instructions comprising HTML elements from various sources. *Slivka*, 20:12-16 (“In the illustrated shell 50, the hypertext viewer 70 contains code to parse and display hypertext pages in the HTML format[.]”), 3:55-67 (“[T]he shell also synthesizes hypertext multimedia documents for display

as the folder views and other displays in the shell's graphical user interface. The hypertext multimedia documents for the various displays are synthesized from templates which are identified in a configuration or '.ini' file.”). A POSITA would have understood that parsing the synthesized hypertext document and sets of HTML instructions would have required storing such information at least temporarily in RAM. *Dec.*, ¶¶60-62, 85-88. Thus, whether storing HTML instructions temporarily in volatile memory (RAM) or long term in non-volatile memory (ROM, hard disk, flash memory, or other long-term storage), either would have met the claimed “electronic storage configured to store networked information monitor template associated with a networked information monitor[.]”

C. Claim 1(b): one or more processors configured to execute one or more computer program modules, the one or more computer program modules being configured to access the networked information monitor defined by the networked information monitor template, wherein accessing the networked information monitor defined by the networked information monitor template results in:

Slivka teaches Claim 1(b). More specifically, *Slivka* teaches a computer system 20 including CPU 24, where CPU 24 includes an ALU 34, registers 36, and control unit 38. *Slivka*, 4:63-5:11. *Slivka* teaches numerous exemplary processors for CPU 24. *Id.* *Slivka* teaches computer-executed acts and operations of the system are controlled by CPU 24. *Slivka*, 5:32-57. *Slivka* also teaches an operating system and at least one application program stored in memory system 26. *Id.* A POSITA would have understood that *Slivka*'s operating system, application program, and other

computer instructions would have met the claimed “computer program modules.” *Dec.*, ¶89. Indeed, a POSITA would have understood that *Slivka*’s CPU 24 would have been configured to execute such computer instructions, which would have been configured to access *Slivka*’s HTML instructions to execute said HTML instructions to, for example, generate the desktop view. *Dec.*, ¶89. As discussed above, *Slivka* teaches storing hypertext pages in memory system 26. *See supra* Claim 1(a); *Slivka*, 20:25-34. A POSITA would have understood that *Slivka*’s shell 50, which “provides a graphical user interface of the computer to interact with the operating system” and which includes hypertext viewer 70, would have been controlled by CPU 24. *Slivka*, 5:59-66, 11:54-12:13, 16:23-52, 18:49-19:18, 20:8-34; *Dec.*, ¶89.

Slivka teaches the claimed NIM and NIM template. *See supra* Claim 1(a). A POSITA would have understood that *Slivka*’s computer system includes one or more processors to access a first set of HTML instructions (i.e., first NIM template) and execute said HTML instructions to present the graphical user interface of the HTML frame (i.e., first NIM) including content received from the content reference therein to a user on the electronic display. *Dec.*, ¶89. Given the functionality of *Slivka*’s shell, a POSITA would have understood such shell to access the set of HTML instructions to be able to generate the corresponding HTML frame. *Dec.*, ¶89. Accessing the HTML frame (NIM) defined by the set of HTML instructions (NIM

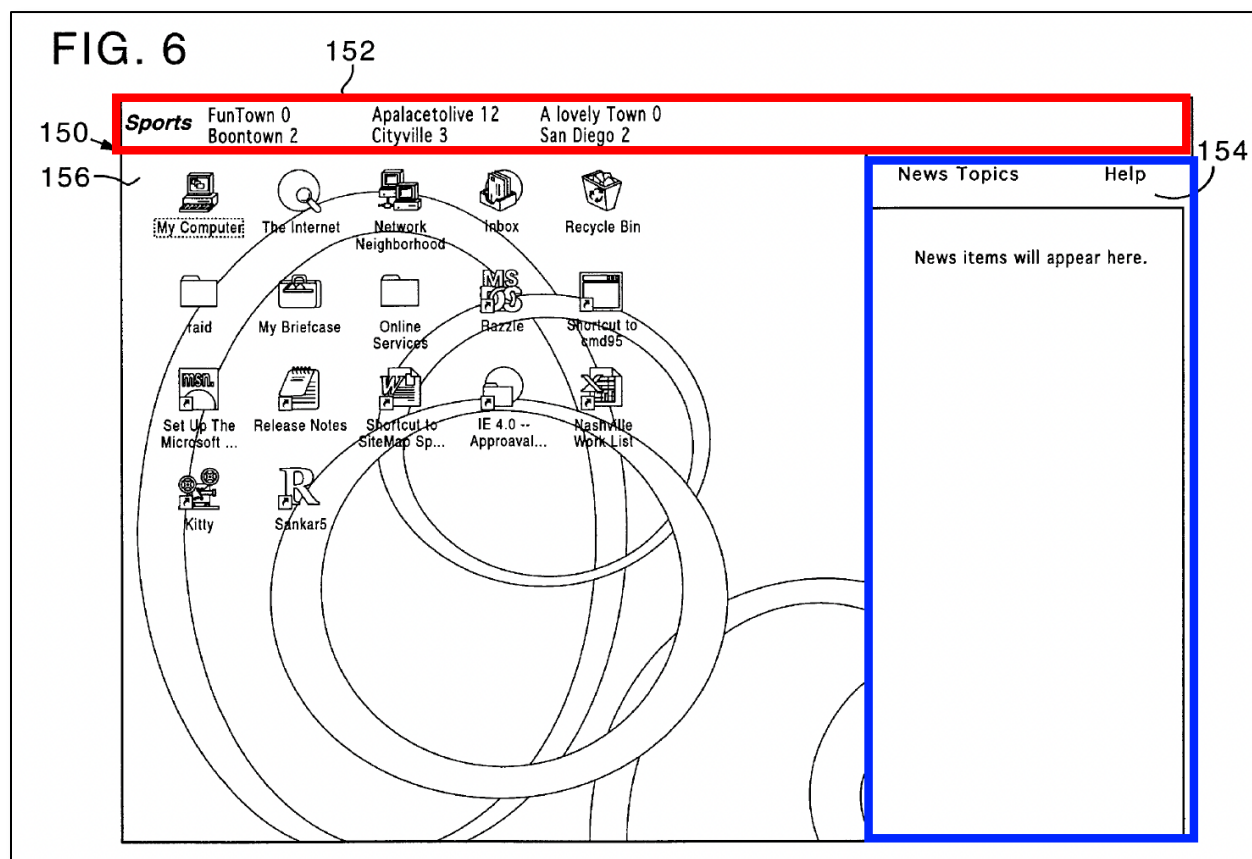
template) has resulting computer operations, as discussed below. *See infra* Claims 1(b)(i)-1(b)(iv).

D. Claim 1(b)(i): transmission, over a network to a web server at a network location, of a content request for content to be displayed within the frame of the viewer graphical user interface defined by the networked information monitor template;

Slivka alone or in view of *Powell* renders obvious Claim 1(b)(i).

1. *Slivka's Teachings*

Slivka's news pane 154 “presents HTML format information **retrieved from the web**, such as images and text relating to news events.” *Slivka*, 19:9-11 (emphasis added). Annotated FIG. 6 below depicts exemplary HTML frame news pane 154 (blue) that display content retrieved from a network location.



Slivka, FIG. 6 (annotated); *Dec.*, ¶102 (explaining a POSITA would have understood that *Slivka*'s news pane would display actual news information and that the "News items will appear here" is merely an illustrative placeholder.). A POSITA would have understood that to retrieve such content from the Web, the corresponding set of HTML instructions would include instructions for a content request to be sent over a network for content to be displayed. *Dec.*, ¶¶90-92. In other words, a POSITA would have understood that accessing *Slivka*'s HTML instructions would have caused transmission of a content request even though such references are not expressly discussed in *Slivka*. *Dec.*, ¶¶90-92.

Indeed, *Slivka* makes clear that (1) the set of HTML instructions defines corresponding HTML frames, and (2) its HTML frames present information retrieved from the Web. *Slivka*, 19:1-11; *see also supra* Claim 1(a). As such, a POSITA would have understood that information from the Web would be retrieved by transmitting a content request to a network location for such information. *Dec.*, ¶¶90-92.

As set forth below, a POSITA would have been motivated to implement a content request in *Slivka*'s set of HTML instructions as a uniform resource locator (URL) content reference, consistent with the teachings of *Powell*.⁸

2. *Powell's Teachings*

Powell teaches that within an HTML frame (e.g., *Slivka*'s news pane 154), an SRC attribute is used to indicate the **URL of the frame content**. *Powell*, 368 (further teaching "SRC=URL of frame contents" in an exemplary frame HTML) (emphasis

⁸ Petitioner is concurrently filing IPR petitions challenging similar patents owned by Patent Owner—IPR2023-00937 and IPR2023-00938. In each of these petitions, Petitioner argues that *Slivka* in view of the knowledge of a POSITA teaches the claimed content reference and, in the alternative, that *Slivka* in view of *Powell* teaches this concept. In the instant petition, Ground 1 relies on *Powell*'s teachings for well-established features of HTML in addition to the use of URL content references. To streamline the grounds presented, for the content reference limitation, the instant petition relies only on the theory that *Slivka* in view of *Powell* renders this limitation obvious and does not separately present a theory that *Slivka* in view of the knowledge of a POSITA renders this limitation obvious. This streamlining does not take away from the theory in Petitioner's other two related petitions that *Slivka* in view of the knowledge of a POSITA does in fact render obvious a content reference.

added). *Powell* explains that URLs are “standard” ways to refer to objects and services on the Internet. *Powell*, 155. More specifically, *Powell* explains that “[a] URL is the address of an object; it specifies where and how to retrieve or activate that object.” *Powell*, 58. Thus, a POSITA would have been motivated and found it obvious to use a URL to reference content retrieved from the Web and presented to a user through an HTML frame. *Dec.*, ¶¶90-97.

3. Motivation to Modify *Slivka*

As discussed above, *Slivka* expressly teaches retrieving and presenting information from the Web to a user through an HTML frame. *Slivka*, 18:49-19:11. In light of *Powell*’s teachings about using URLs to define frame content, a POSITA would have been motivated to implement at least one URL to retrieve or activate *Slivka*’s news pane 154 content from the Web because such was a well-known and standard technique for HTML instructions. *Dec.*, ¶¶90-97. Such a use of a known technique of using a URL to reference or retrieve content from a network location (e.g., Internet) would have improved *Slivka*’s similar HTML instructions in the same way as *Powell*’s.

Slivka already teaches using sets of HTML instructions, which a POSITA would have understood would have been straightforward to modify. *Dec.*, ¶¶90-97. In particular, such modifications to *Slivka*’s sets of HTML instructions would not have required hardware changes or complex system changes and would have

required only minor modifications to HTML instructions, which was a well-known and well-understood process. *Dec.*, ¶¶90-97. Therefore, a POSITA would have had a reasonable expectation of success when making such a modification. *Id.* Further, *Powell* teaches implementing such URL for the precise purpose of defining the content of an HTML frame, like *Slivka*'s news pane 154. *Powell*, 365; *see also supra* Claim 1(a) (explaining details of *Slivka*'s HTML frames).

A POSITA would have understood that processing a URL contained within *Slivka*'s set of HTML instructions would have resulted in transmitting a first content request to the first network location referenced by the URL. *Dec.*, ¶¶90-97. Indeed, such content references were known to be used within HTML as a way to retrieve content from the Internet. *Id.*

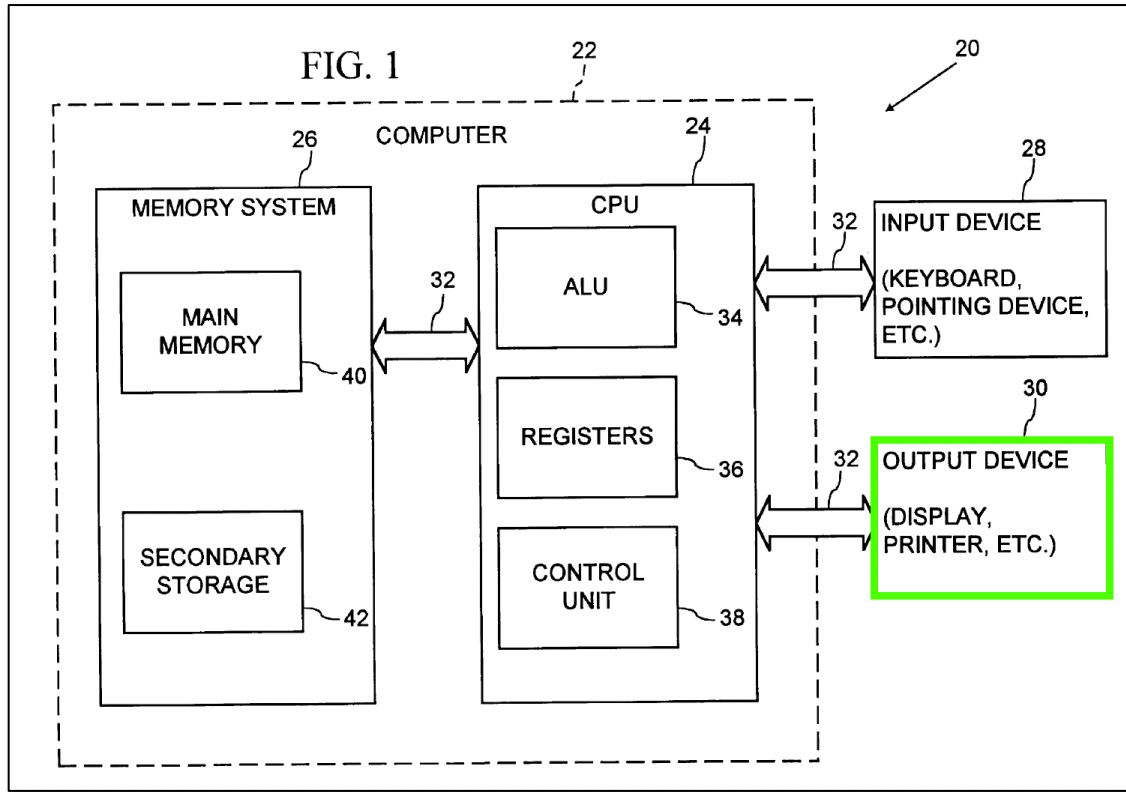
A POSITA would have further understood that transmitting such a content request would have been in response to instructions included in the requested NIM template. *Dec.*, ¶¶90-97. Indeed, *Slivka* teaches sets of HTML instructions that include computer-executed markup language instructions for performing operations. *Slivka*, 5:32-57; *Dec.*, ¶¶30-35, 46-50, 90-97 (explaining HTML elements/tags and how such elements/tags are parsed into a GUI). *Slivka* teaches shell 50, including hypertext viewer 70, which parses sets of HTML instructions, including the definition of a content reference, to generate HTML frames presented in a GUI. *See supra* Section IV.A

E. Claim 1(b)(ii): reception, over the network from the web server at the network location, of content transmitted from the web server in response to the content request, the content being time-varying;

As discussed above, *Slivka* in view of *Powell*, teaches content transmitted from the web server in response to the content request. *See supra* Claim 1(b)(i). *Slivka-Powell*, further teaches reception of such content. More specifically, *Slivka*, 18:49-19:17, FIG. 6. A POSITA would have understood that part of presenting and retrieving such content would include reception, over the network, of such content based on the content request. *Dec.*, ¶¶98-99. As discussed above, *Slivka* teaches the content being time-varying. *See supra* Claim 1(a).

F. Claim 1(b)(iii): presentation, on the display, of the viewer graphical user interface defined by the networked information monitor template outside of and separate from any graphical user interface of any other application; and

Slivka teaches Claim 1(b)(iii). As discussed above, *Slivka* teaches a set of HTML instructions that defines an HTML frame. *See supra* Section IV.A; *also see supra* Claim 1(a). *Slivka* further teaches presentation on the display of news pane 154 HTML frame. *See supra* Claim 1(a). *Slivka* teaches an output device 30, which comprises a display. *Slivka*, 5:25-31, 5:59-66 (“The graphical user interface includes a desktop display 52 presented on a video screen of the computer’s output device 30 (FIG. 1).”), 11:54-57. Annotated FIG. 1 below depicts output device 30 (green):

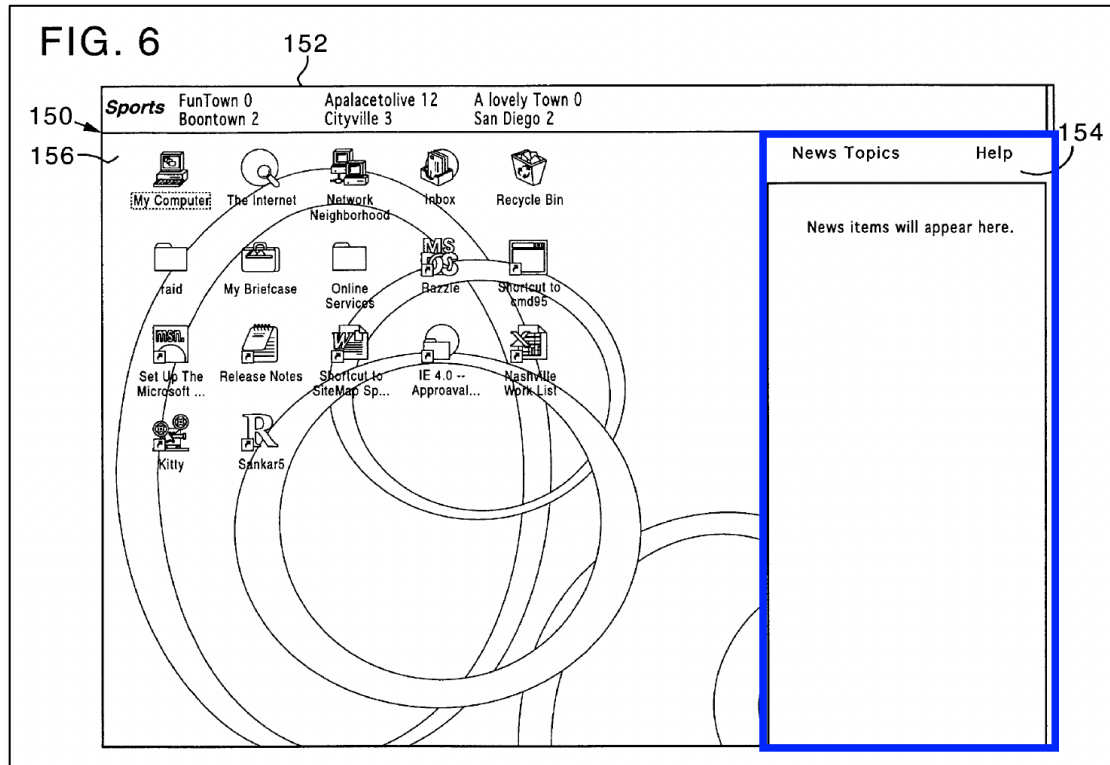


Slivka, FIG. 1 (annotated).

As discussed above, *Slivka* teaches its set of HTML instructions (“NIM template”) produces at least one HTML frame on a graphical user interface of a user’s electronic display. *See supra* Claim 1(a). As discussed below, *Slivka* teaches presentation of such HTML frame news pane 154 “outside of and separate from any [GUI] of any other application” as claimed.

Slivka teaches the “example hypertext desktop view 150 has separate HTML frames (i.e., areas on an HTML page) for a ticker 152, a news pane 154, and desktop icons frame 156.” *Slivka*, 19:1-6. Annotated FIG. 6 below depicts news pane 154

presented on the display “outside of and separate from” any GUI of any other application:



Slivka, FIG. 6 (annotated); *Dec.*, ¶¶100-103.

A POSITA would have understood presentation of news pane 154 to be separate and outside of any other application. As discussed in detail above, *Slivka* teaches that its HTML frames are presented as a result of parsing a synthesized hypertext page. *See supra* Section IV.A. *Slivka*’s exemplary hypertext page teaches presentation of various frames in a manner that takes up the entire desktop view of the output display device. *Id.* As such, *Slivka*’s HTML frames are only presented

with additional HTML frames defined by sets of HTML instructions in the exemplary hypertext page. *Dec.*, ¶¶100-103.

G. Claim 1(b)(iv): presentation, on the display within the frame of the viewer graphical user interface defined by the networked information monitor, of the time-varying content received from the web server.

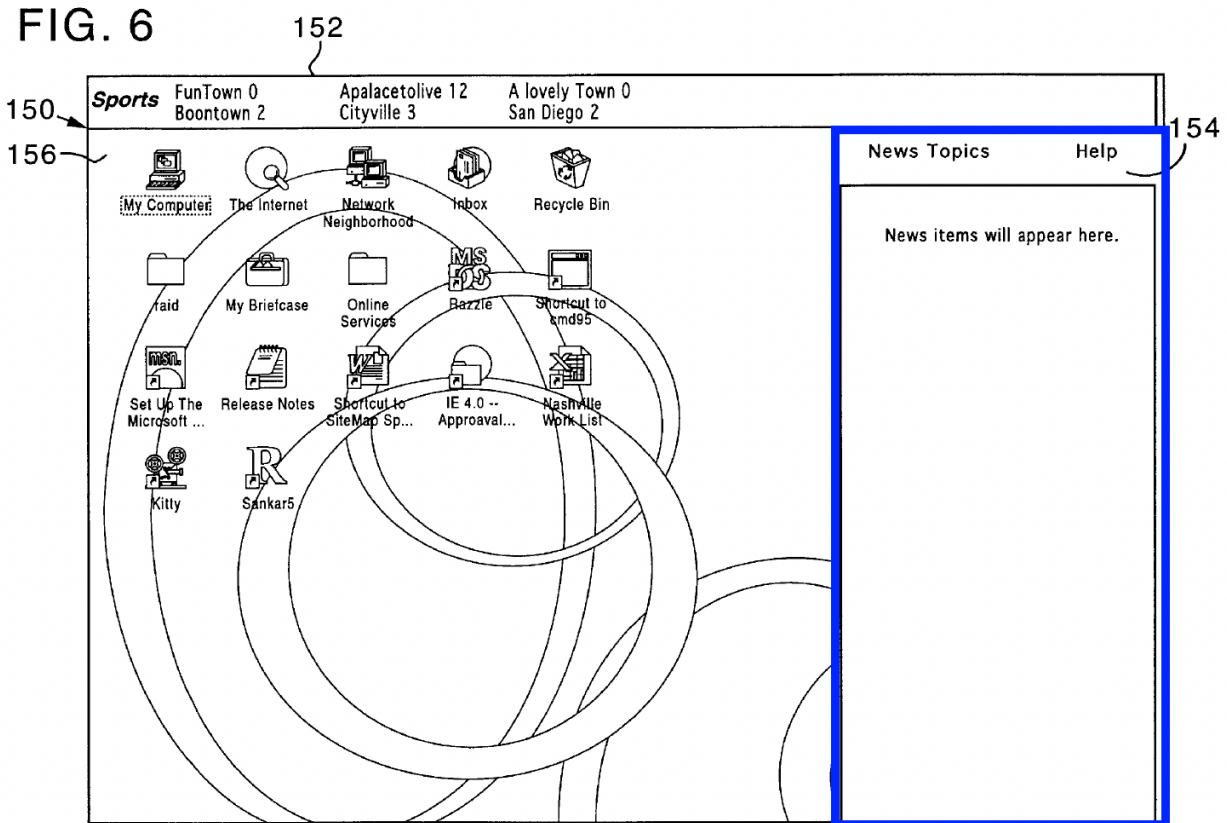
Slivka in view of *Powell*, teaches Claim 1(b)(iv). As discussed above, *Slivka* teaches a set of HTML instructions (NIM template) that defines an HTML frame. *See* Section IV.A; *also supra* Claim 1(a). *Slivka* in view of *Powell*, teaches or renders obvious receiving time-varying content received from the web server. *Id.*; *also see supra* Claim 1(b)(ii). Even further, *Slivka* teaches presentation on the display of news pane 154 HTML frame, including its time-varying content. *See supra* Claim 1(b)(iii). It follows that *Slivka* in view of *Powell* teaches “presentation, on the display within the frame of the viewer [GUI] defined by the [NIM], of the time-varying content” as claimed. *Dec.*, ¶104.

H. Claim 2: The method of claim 1, further comprising, responsive to reception of one or more elements included in the received time-varying content, modifying a feature of said viewer graphical user interface defined by the networked information monitor template in accordance with a modification corresponding to the received one or more elements.

Slivka in view of *Powell*, renders obvious Claim 1. *See supra* Claim 1. *Slivka* teaches receiving time-varying content. *See supra* Claims 1(a), 1(b)(ii). *Slivka* also teaches a viewer graphical user interface defined by a set of HTML instructions (NIM template). *See supra* Claims 1(a), 1(b)(iii), 1(b)(iv). A POSITA would have

understood that upon receiving such time-varying content, a feature of the viewer graphical user interface is modified in response to reception of one or more elements included in the received time-varying content. *Dec.*, ¶¶105-107.

For example, *Slivka* teaches news pane 154 receives and “presents HTML format information retrieved from the web, such as images and text relating to news events.” *Slivka*, 19:9-11. Additionally, *Slivka* teaches “[n]ews items will appear here” in news pane 154 (blue) of FIG. 6 below:



Slivka, FIG. 6 (annotated). As discussed above, *Slivka* teaches that such news content is time-varying. See *supra* Claims 1(a) (discussing refreshing content) and 1(a)

(discussing “OnLineButton” for switching to live content). As such, a POSITA would have understood that as the news content changes and *Slivka* refreshes the content, the presented “images and text relating to news events” would have been modified. *Dec.*, ¶¶105-107. A POSITA would have further understood that upon receiving the modified content, a feature (e.g., images or text) of the viewer graphical interface defined by the set of HTML instructions for news pane 154 would have been modified. *Dec.*, ¶¶105-107.

A specific example of “modifying the feature of the viewer graphical user interface” is discussed for Claim 6 below, which requires “changing a color of a frame border or background of the viewer graphical user interface[.]” The mapping for Claim 6 is hereby incorporated for Claim 2. *See infra* Claim 6.

I. Claim 3: The client computing device of claim 2, wherein said modification corresponding to the received one or more elements comprises a modification to an image defined by the networked information monitor template as forming a part of said viewer graphical user interface.

Slivka in view of Powell, renders obvious Claim 2. *See supra* Claim 2. *Slivka* teaches modifying the news pane 154 corresponding to receiving one or more elements (e.g., receiving images and text related to news stories). As discussed above, *Slivka* teaches news pane 154 receives and “presents HTML format information retrieved from the web, such as **images** and text relating to news events.” *Slivka*, 19:9-11 (emphasis added), FIG. 6; *Dec.*, ¶108. A POSITA would

have understood that such a modification corresponding to received elements would have comprised a modification to an image defined by a set of HTML instructions as forming a part of *Slivka*'s viewer GUI. *Dec.*, ¶108.

J. Claim 4: The client computing device of claim 2, wherein the correspondence between the modification and the received one or more elements is defined by the networked information monitor template.

See supra Claim 2. *Slivka* teaches a set of HTML instructions having a definition of a viewer GUI having a frame within which time-varying content is presented on a display. *See supra* Claim 1. *Slivka* teaches modifying news pane 154 to present images and text related to news stories, wherein said images and text are retrieved from the Internet. *Slivka*, 19:9-11, FIG. 6; *See supra* Claim 2; *Dec.*, ¶¶109-110. A POSITA would have understood that the correspondence between the modification to the news pane 154 and the one or more received elements (e.g., images, text) is defined by *Slivka*'s set of HTML instructions. *Dec.*, ¶¶109-110. For example, a POSITA would have understood or found obvious that an HTML frame such as news pane 154 is defined by HTML instructions, such that modifications to the HTML instructions for news pane 154 would have modified news pane 154 accordingly.

K. Claim 6: The client computing device of claim 2, wherein the one or more computer program modules and the networked information monitor template are configured such that modifying the feature of the viewer graphical user interface comprises changing a color of a frame border or background of the viewer graphical user interface.

See supra Claim 2. *Slivka-Powell* further renders obvious Claim 6. As discussed below, a POSITA would have been motivated and found it obvious to modify *Slivka*'s HTML frame background to accommodate different images (e.g., providing contrast or colors relative to news content such as colors corresponding to happy or tragic news stories).

1. Slivka's Teachings

Slivka teaches one or more computer program modules. *See supra* Claim 1(b). *Slivka*'s HTML frames further include, for example, background color selection. *Slivka*'s Appendix D includes an exemplary set of HTML instructions for news.htm, including "BGCOLOR=#000000[.]"

```

<BODY LEFTMARGIN=0 TOPMARGIN=0 BGCOLOR=#000000>
<CENTER>
<IMG SRC="IELOGO.GIF" VSPACE=32>
<FONT FACE=TAHOMA SIZE=2 COLOR=gray>
<BR>Press this button
<BR><U>after</U> you are connected to the internet
<BR>to switch to live content.
<BR><BR>
<object id=OnLineButton
  classid="clsid:BEAADBC0-E570-11CF-A9AD-00AA00B92C4D"
  width=72 height=18>
  <PARAM NAME=BordColor VALUE="#000000">
  <PARAM NAME=BackColor VALUE="#D0D0D0">
  <PARAM NAME=ForeColor VALUE="#000000">
  <PARAM NAME=BackHighColor VALUE="#808080">
  <PARAM NAME=ForeHighColor VALUE="#FFFFFF">
  <PARAM NAME=BackClickColor VALUE="#000000">

```

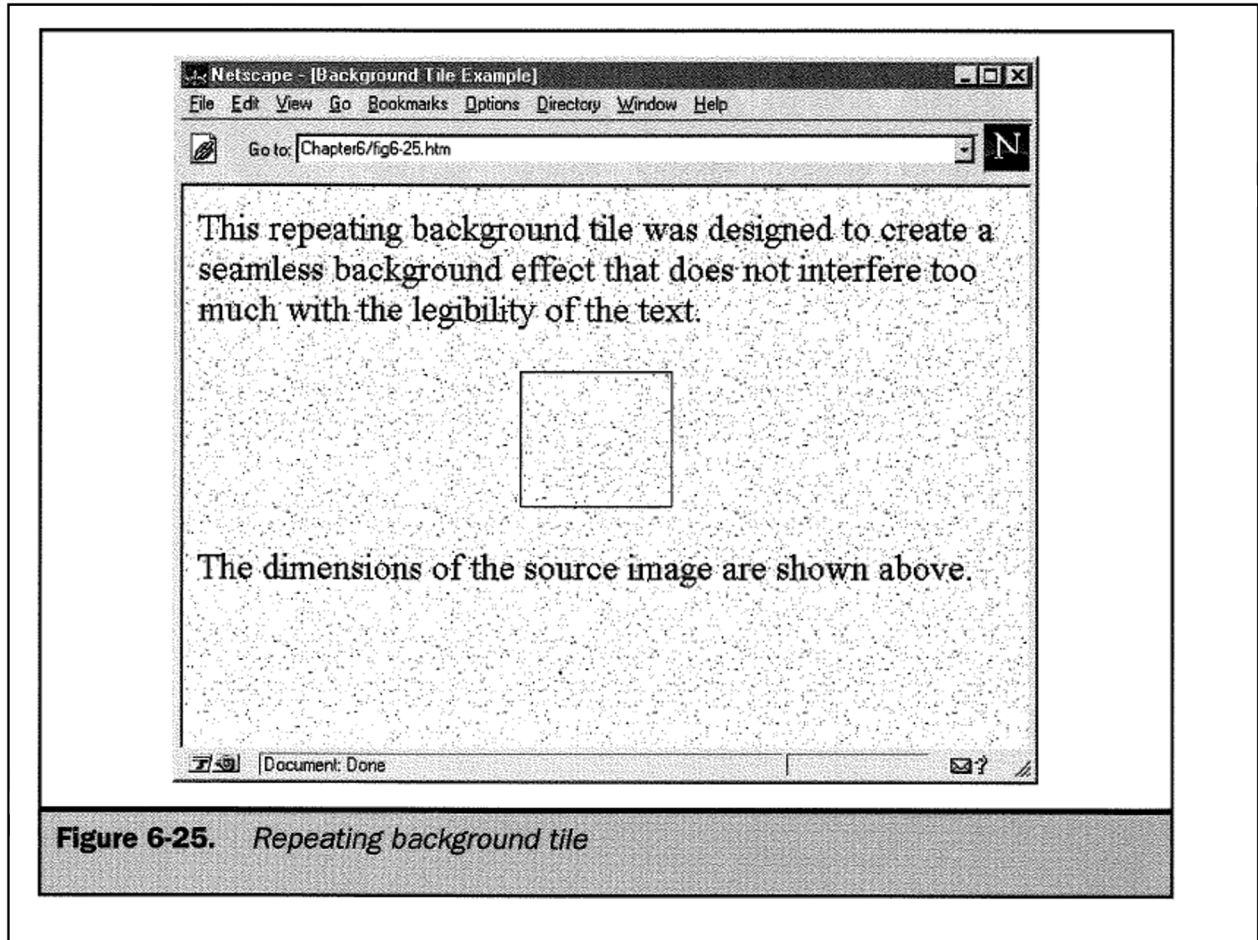
Slivka FH, 74; Dec., ¶¶111-117 (explaining BGCOLOR sets a frame background color).

However, *Slivka* does not expressly teach its set of HTML instructions and computer program instructions (computer program modules) are configured such that modifying the feature of the viewer GUI comprises adjusting a color of the frame or background of the viewer GUI. *Powell*, however, teaches that adjusting the color of a frame or background was a well-known feature of HTML.

2. *Powell's Teachings*

Powell teaches presenting content (e.g., text) at least in part within an image (e.g., a background image). For example, *Powell* teaches “you can also change the appearance of a Web page by setting a background image using the

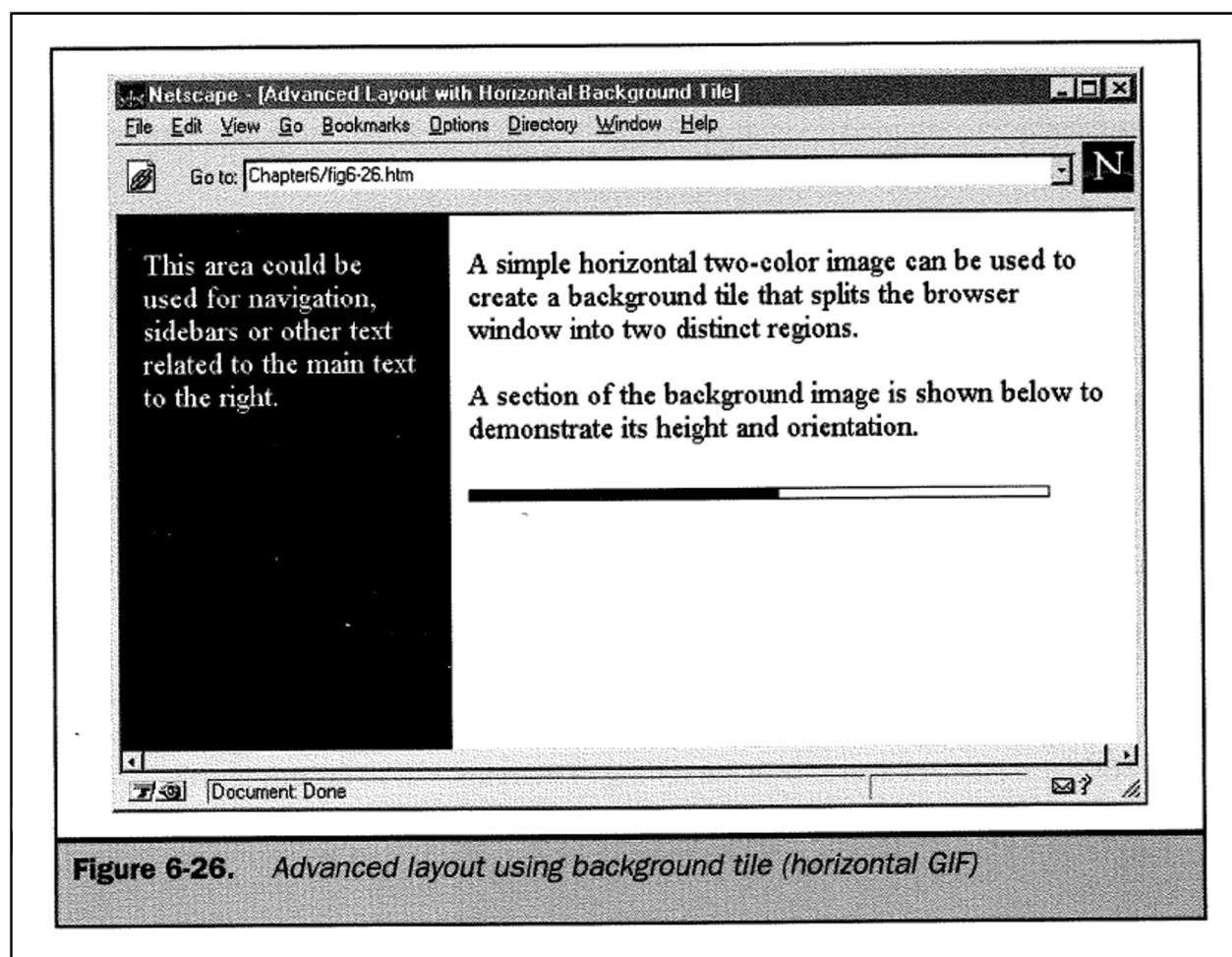
BACKGROUND attribute. The value of BACKGROUND is the URL for a GIF or JPEG file[.]” *Powell*, 263.



Powell, 264 (“Figure 6-25”).

Additionally, *Powell* teaches “[b]ackground images, or tiles, can also be used to create other effects. A single GIF 5 pixels high and 1,200 pixels wide could be used to create a useful page layout. The first 200 horizontal pixels of the GIF could be black, while the rest could be white.” *Powell*, 264. *Powell* further teaches that “[a]ssuming 1,200 pixels as the maximum width of a browser, this tile would only

repeat vertically, thus creating the illusion of a two-tone background. This has become a very common concept on the Web. Many sites use the left-hand color for navigation buttons, while the remaining area is used for text, as shown in Figure 6-26.” *Powell*, 264-265. *Powell’s* Figure 6-26 teaches the dark portion of the background image includes “sidebars or other text related to the main text to the right” and the light portion of the background image includes other text, as depicted below:



Powell, 265 (“Figure 6-26”), 266 (“Figure 6-27”).

3. *Motivation to Modify Slivka*

Slivka teaches utilizing sets of HTML instructions to define HTML frames and provides exemplary sets of HTML instructions but does not provide details on implementing modifications to sets of HTML instructions. *See supra* Claim 1. A POSITA would have been motivated and found obvious to improve *Slivka's* system using well known and understood HTML instruction techniques to modify *Slivka's* HTML frames, for example, by modifying sets of HTML instructions of *Slivka's* hypertext pages. *Dec.*, ¶¶111-117. A POSITA would have been motivated and found it obvious to modify *Slivka's* HTML instructions such that modifying a feature of the viewer GUI such as an image or text would have comprised changing a color of a frame border or background of the viewer GUI. *Id.* Specifically, a POSITA would have been motivated and found it obvious to modify *Slivka* to utilize HTML instructions, consistent with *Powell's* teachings, to specify a background image sourced from a URL, so that the background color would have been modified as the content changes with time. *Id.* (discussing modifying HTML instructions to define the background of news pane 154 as an image sourced from the Internet). Indeed, *Powell* teaches providing HTML instructions to generate HTML frames and utilizing HTML to specify various characteristics of HTML frames, including frame size, border color, and frame background color. *Id.*

A POSITA would have been motivated to modify *Slivka* to include *Powell*'s HTML instruction teachings to customize and improve the on-screen layout and frame characteristics of *Slivka*'s HTML frames. *Id.* For example, such a modification would have advantageously modified *Slivka*'s HTML frame background to accommodate different images (e.g., providing contrast or colors relative to news content such as colors corresponding to happy or tragic news stories). *Id.* In another example, such a modification would have modified the background *Slivka*'s news pane 154 HTML frame to provide more eye-catching or otherwise customized background colors. *Id.* A POSITA would have understood that such would have been use of a known technique of utilizing sets of HTML instructions to advantageously improve *Slivka*'s HTML frames in the same way as *Powell*'s HTML frames. *Id.* A POSITA would have understood that such a use of a known technique of using HTML instructions in this manner would have advantageously improved *Slivka*'s set of HTML instructions, which already includes images, in the same way as *Powell*, by changing a color of the background of the viewer GUI. *Id.*

Further, a POSITA would have understood that such modifications would have had a reasonable expectation of success. *Slivka* already teaches using sets of HTML instructions including a frame size and specifying colors (e.g., background color), which a POSITA would have understood would have been straightforward to modify. In particular, such modifications to *Slivka*'s sets of HTML instructions

would not have required hardware changes or complex system changes and would have required only minor modifications to HTML instructions, which was a well-known and well-understood process, as taught by *Powell*. *Id.* Indeed, a POSITA would have understood or found obvious that modifying *Slivka* according to *Powell*'s teachings would have been merely implementation of well-known HTML instruction techniques and thus would not have required undue experimentation, as such techniques were already well understood, as taught by *Powell*. *Id.* Additionally, a POSITA would have understood that such a modification would have had a reasonable expectation of success, especially because *Powell* provides exemplary HTML instructions to create said layout and because such was "very common." *Id.*; *Powell*, 264-265.

L. Claim 7: The client computing device of claim 2, wherein the one or more computer program modules and the networked information monitor template are configured such that modifying the feature of the viewer graphical user interface comprises modifying text of the viewer graphical user interface in a manner defined by the networked information monitor template.

See supra Claim 2.

1. *Slivka's Teachings*

Slivka teaches modifying the news pane 154 corresponding to receiving one or more elements (e.g., receiving images and text related to news stories) and that said modification comprises modifying an image defined by the set of HTML instructions that form part of the viewer GUI. As discussed above, *Slivka* teaches

news pane 154 receives and “presents HTML format information retrieved from the web, such as images and **text** relating to news events.” *Slivka*, 19:9-11 (emphasis added), FIG. 6; *Dec.*, ¶118. A POSITA would have understood that such a modification corresponding to received elements would have comprised a modification to text defined by a set of HTML instructions as forming a part of *Slivka*’s viewer GUI. *Dec.*, ¶118.

Furthermore, *Slivka* teaches setting a text font type (“FONT FACE=TAHOMA”), text size (“SIZE=2”), and text color (“COLOR=gray”) in its exemplary HTML instructions for news pane 154:

```
<BODY LEFTMARGIN=0 TOPMARGIN=0 BGCOLOR=#000000>
<CENTER>
<IMG SRC="IELOGO.GIF" VSPACE=32>
<FONT FACE=TAHOMA SIZE=2 COLOR=gray>
<BR>Press this button
<BR><U>after</U> you are connected to the internet
<BR>to switch to live content.
<BR><BR>
<object id=OnLineButton
  classid="clsid:BEAADBC0-E570-11CF-A9AD-00AA00B92C4D"
  width=72 height=18>
  <PARAM NAME=BordColor VALUE="#000000">
  <PARAM NAME=BackColor VALUE="#D0D0D0">
  <PARAM NAME=ForeColor VALUE="#000000">
  <PARAM NAME=BackHighColor VALUE="#808080">
  <PARAM NAME=ForeHighColor VALUE="#FFFFFF">
  <PARAM NAME=BackClickColor VALUE="#000000">
```

Slivka FH, 74 (excerpt). Likewise, *Slivka* teaches the same for ticker 152, where text color is modified with the HTML instruction “text=gray”):

```
<meta http-equiv="Refresh" content=14400>  
<HTML>  
<BODY LEFTMARGIN=0 TOPMARGIN=0 BGCOLOR=#003366 text=gray>
```

Slivka FH, 76 (excerpt).

2. *Powell's Teachings*

Powell teaches HTML instructions for setting text color and attributes. *Powell*, 109 (“Common attributes for the <BODY> element affect the colors for a document’s text, background, and links. These attributes include TEXT for text color, BGCOLOR for background color[.]”). *Powell* teaches that it “may sometimes be desirable to use bold, italics, or other font attributes to set off certain text, such as computer code. Common HTML supports a number of elements that can be used to influence physical formatting. The elements have no meaning other than to make text render a particular way. Any other meaning is assigned by the reader.” *Powell*, 141. Further, *Powell* teaches “[a]rtistic style, color theory, typography, and other visual concerns are an important part of the Web design process.” *Powell*, 70. Further, *Powell* teaches setting colors for readability. *Powell*, 264 (“Just like setting background colors, the most important consideration is the degree of contrast. Always attempt to keep the foreground and background at a high level of contrast so that users can read the information.”).

3. *Motivation to Modify Slivka*

A POSITA would have been motivated and found it obvious to modify *Slivka*'s HTML instructions to modify text font, text size, and/or text color to accommodate different news content (e.g., providing contrast or colors relative to news content such as colors corresponding to happy or tragic news stories). *Dec.*, ¶118. Indeed, a POSITA would have been motivated and found it obvious to modify *Slivka*'s text (whether size, font, or color) for the same reasons discussed for Claim 6. *See supra* Claim 6. The motivation to modify *Slivka* in view of *Powell* and reasonable expectation of success of such motivation for Claim 6 is hereby incorporated for Claim 7, with the difference being modifying text (e.g., color) instead of modifying a background color. *Dec.*, ¶118.

M. Claim 8: The client computing device of claim 1, wherein the networked information monitor template includes a markup language file.

Slivka in view of *Powell*, renders obvious Claim 1. *See supra* Claim 1. *Slivka* teaches using a set of HTML (HyperText Markup Language) instructions (“NIM template”) that define an HTML frame, such as the news pane 154. *See supra* Claim 1. *Slivka* further teaches incorporating various HTML files within its set of HTML instructions. *Slivka FH*, 69-77; *See supra* Section IV.A; *also supra* Claim 1(a) (describing *Slivka*'s appendices referencing several different HTML files). Thus,

Slivka teaches its set of HTML instructions (NIM template) includes a markup language file. *Dec.*, ¶119.

N. Claim 9: The client computing device of claim 1, wherein one or more computer program modules are configured such that the time-varying content is received from the web server over the network according to the TCP/IP protocol.

See supra Claim 1. *Slivka* teaches one or more computer program modules. *See* Claim 1(b). Regarding the claimed “TCP/IP protocol,” *Slivka* teaches accessing content over the Internet. *Slivka*, 18:49-19:11. As discussed above, *Slivka* teaches computer system 20 includes network access. *See supra* Claim 1(Pre). A POSITA would have understood that TCP/IP was the protocol used for Internet access for *Slivka*’s modified content references consistent with *Powell*’s teachings. *Dec.*, ¶120. *Powell* teaches the “Internet is the name given to the worldwide collection of data networks (an internetwork) that ‘speak’ the TCP/IP network protocol.” *Powell*, 63. Additionally, *Powell* teaches “actual transmission of data” over the Internet “is handled by TCP/IP.” *Powell*, 62. Further, a POSITA would have understood that *Slivka* would have used TCP/IP protocol because TCP/IP is a “reliable protocol” where any packets lost in transmission can be retransmitted. *Dec.*, ¶120. *Powell* teaches that “[b]ecause the Internet is a packet-switched network, data can arrive out of order, get lost, and so on. The TCP/IP network protocol deals with these problems.” *Powell*, 62.

Further, and more specifically, with respect to the URL content references discussed in Claim 1(b)(ii), *Powell* explains that within the context of a URL, “[t]he discussion is handled by the HTTP protocol. The actual transmission of data is handled by TCP/IP.” *Powell*, 62. Thus, because *Slivka* in view of *Powell* teaches a content reference via a URL, and because TCP/IP was used when accessing information using http protocols, a POSITA would have understood that *Slivka* would have utilized the TCP/IP protocol for its connections over the Internet (e.g., accessing content). *Dec.*, ¶120.

O. Claim 10: The client computing device of claim 1, wherein the network location corresponds to a uniform resource locator included in the networked information monitor template.

See supra Claim 1. More specifically, *Slivka*, in view of *Powell*, renders obvious the HTML frame such as news pane 154 receives content transmitted from a web server in response to a content request in the form of a uniform resource locator corresponding to a network location and included in the set of HTML instructions. *See supra* Claims 1(b)(i), 1(b)(ii) (discussing *Powell*’s URL content reference). *Dec.*, ¶121.

P. Claim 11: The client computing device of claim 10, wherein the one or more computer program modules are further configured such that accessing the networked information monitor defined by the networked information monitor template results in transmission of the content request to the uniform resource locator included in the networked information monitor template, and the content request being transmitted according to the TCP/IP protocol over the network.

See supra Claim 10. *Slivka-Powell* further renders obvious one or more computer program modules configured such that accessing the NIM defined by the NIM template results in transmission of the content request to the URL included in the NIM template. *See supra* Claim 1(b)(i). *Slivka-Powell* further renders obvious the content request being transmitted according to the TCP/IP protocol over the network. *See supra* Claim 9.

Q. Claim 13(Pre): A computer-implemented method of accessing content over a network on a client computing device, the client computing device having electronic storage and one or more processors configured to execute one or more computer program modules, the client method comprising:

As discussed above, *Slivka* teaches a client computing device (*see supra* Claim 1(Pre)) that comprises electronic storage (*see supra* Claim 1(a)) and one or more processors configured to execute one or more “computer program modules,” (*see supra* Claim 1(b)) as claimed. A POSITA would have understood that *Slivka* teaches a computer-implemented method of accessing content over a network on such client computing device. *Dec.*, ¶123; *see supra* Claim 1(a).

R. Claim 13(a): storing, to the electronic storage, a networked information monitor template associated with a networked information monitor, the networked information monitor template having therein a definition of a viewer graphical user interface having a frame within which time-varying content in a web browser-readable language may be presented on a display associated with the client computing device, wherein the frame of the viewer graphical user interface lacks controls for enabling a user to specify a network location at which content for the networked information monitor is available;

See supra Claim 1(a).

S. Claim 13(b): accessing the networked information monitor defined by the networked information monitor template, wherein accessing the networked information monitor defined by the networked information monitor template results in:

See supra Claim 1(b).

T. Claim 13(b)(i): transmission, over a network to a web server at a network location, of a content request for content to be displayed in the viewer graphical user interface defined by the networked information monitor template;

See supra Claim 1(b)(i).

U. Claim 13(b)(ii): reception, over the network from the web server at the network location, of content transmitted from the web server in response to the content request, the content being time-varying;

See supra Claim 1(b)(ii).

V. Claim 13(b)(iii): presentation, on the display, of the viewer graphical user interface defined by the application media package template outside of and separate from any graphical user interface of any other application; and

See supra Claim 1(b)(iii).

W. Claim 13(b)(iv): presentation, on the display within the frame of the viewer graphical user interface defined by the networked information monitor, of the time-varying content received from the web server.

See supra Claim 1(b)(iv).

X. Claim 14: The method of claim 13, responsive to reception of one or more elements included in the received time-varying content, modifying a feature of said viewer graphical user interface defined by the networked information monitor template in accordance with a modification corresponding to the received one or more elements.

See supra Claims 2 and 13.

Y. Claim 15: The method of claim 14, wherein said modification corresponding to the received one or more elements comprises a modification to an image defined by the networked information monitor template as forming a part of said viewer graphical user interface.

See supra Claims 3 and 14.

Z. Claim 16: The method of claim 14, wherein the correspondence between the modification and the received one or more elements is defined by the networked information monitor template.

See supra Claims 4 and 14.

AA. Claim 18: The method of claim 14, wherein modifying the feature of the viewer graphical user interface comprises changing a color of a frame border or background of the viewer graphical user interface.

See supra Claims 6 and 14.

BB. Claim 19: The method of claim 14, wherein modifying the feature of the viewer graphical user interface comprises modifying text of the viewer graphical user interface in a manner defined by the networked information monitor template.

See supra Claims 7 and 14.

CC. Claim 20: The method of claim 13, wherein the networked information monitor template includes a markup language file, and wherein storing the networked information monitor template comprises storing the markup language file.

See supra Claims 8 and 13.

DD. Claim 21: The method of claim 13, wherein the time-varying content is received from the web server over the network according to the TCP/IP protocol.

See supra Claims 9 and 13.

EE. Claim 22: The method of claim 13, wherein the network location corresponds to a uniform resource locator included in the networked information monitor template.

See supra Claims 10 and 13.

FF. Claim 23: The method of claim 22, wherein accessing the networked information monitor defined by the networked information monitor template results in transmission of the content request to the uniform resource locator included in the networked information monitor template, and the content request being transmitted according to the TCP/IP protocol over the network.

See supra Claims 11 and 22.

VI. GROUND 2: CLAIMS 5 AND 17 ARE OBVIOUS OVER *SLIVKA* IN VIEW OF *POWELL* AND *VOTIPKA*

A. Claim 5: The client computing device of claim 2, wherein the one or more computer program modules and the networked information monitor template are configured such that modifying the feature of the viewer graphical user interface comprises adjusting a size of the frame of the viewer graphical user interface.

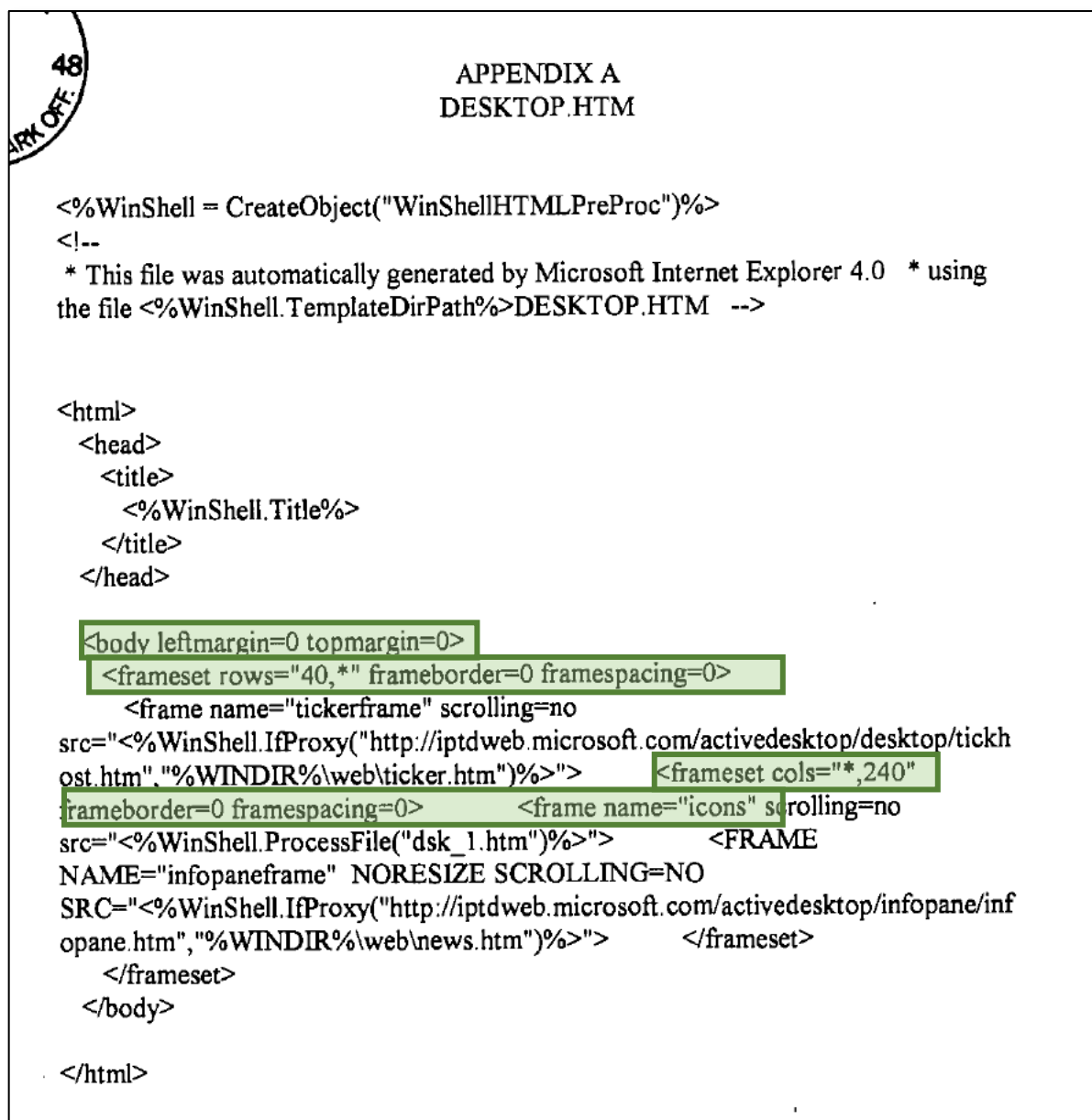
See supra Claim 2. *Slivka-Powell* in view of *Votipka* further renders obvious

Claim 5. In the underlying Ground 1 mapping, *Powell's* teachings are used for the

content request limitations for Claim 1. Namely, Ground 1 established that it would have been obvious to use a URL per *Powell's* teachings as the content reference in *Slivka*. In Ground 2, the *Slivka-Votipka* combination relates specifically to modifications to the viewer GUI in response to the received content. A POSITA would have understood that the proposed modifications to *Slivka* in light of *Votipka's* teachings are unrelated to the proposed modifications to *Slivka* in light of *Powell* and would have viewed both sets of modifications as compatible within *Slivka's* system when implemented at the same time. *Dec.*, ¶¶139-141. For simplicity, because the proposed modifications focus on modifying *Slivka's* native teachings in view of *Votipka*, the below discussion refers to a *Slivka-Votipka* combination. Technically, however, Ground 2 challenges claims 5 and 17 based on a combination of *Slivka*, *Powell*, and *Votipka*.

1. Slivka's Teachings

Slivka teaches one or more computer program modules and a set of HTML instructions (NIM template). *See supra* Claim 1(b). *Slivka* teaches requesting and receiving content for the news pane HTML frame. *See supra* Claims 1(b)(i)-1(b)(ii). *Slivka* teaches a feature of the viewer GUI including a size. For example, *Slivka's* sets of HTML instructions include frame size. *Slivka's* Appendix A, below, includes exemplary HTML instructions defining the frame such as “<frameset rows = ... frameborder = ... framespacing =...> <frame name = ...”



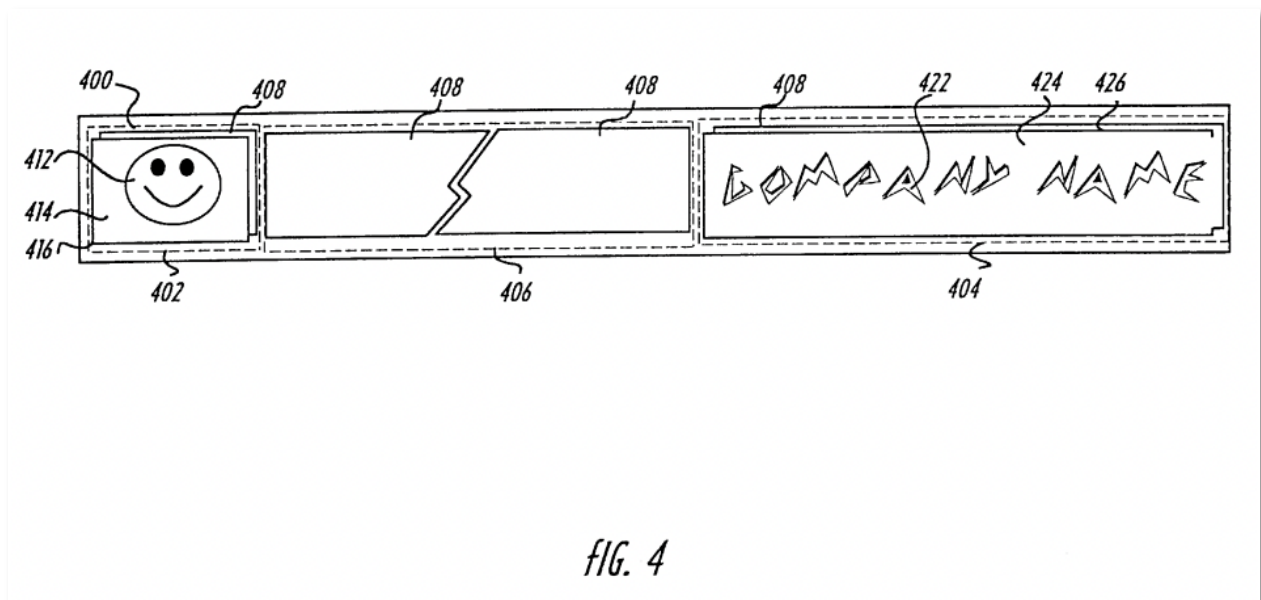
Slivka FH, 69 (excerpt, annotated).

However, *Slivka* does not expressly teach its set of HTML instructions (NIM template) and computer program instructions (computer program modules) are configured such that modifying the feature of the viewer GUI comprises adjusting a

size of the frame of the viewer GUI. *Votipka* however teaches automatically adjusting the size of a frame or banner in a system using HTML instructions.

2. *Votipka's Teachings*

For example, *Votipka* teaches “the banner is created using a HyperText Markup Language (HTML) table to allow designers to build visual banners that are sized automatically.” *Votipka*, 3:21-23. *Votipka* teaches “whenever the user loads a page that includes the banner into their web browser, the browser itself determines the width of the display area and automatically adjusts the size of the table to fit the display area.” *Votipka*, 3:34-37. *Votipka* also teaches that this results “in the perception that the banner has been built specifically for the width of the display area.” *Votipka*, 3:40-43. FIG. 4 below depicts an exemplary banner:



Votipka, FIG. 4.

3. *Motivation to Modify Slivka*

A POSITA would have been motivated and found it obvious to modify *Slivka* per *Votipka*'s teachings to advantageously configure a banner or frame to resize based on received content, such as a logo or other image. *Dec*, ¶¶139-141; *Votipka*, 2:35-41, 2:66-3:7. Such a use of a known technique of automatically resizing a frame or banner width would have advantageously improved *Slivka* in the same way as *Votipka*. *Dec*, ¶¶139-141. *Votipka* also teaches express advantages of such a modification. "It will be appreciated by those skilled in the art that the invention described herein provides inherent advantages over the prior art." *Votipka*, 5:61-63; *Dec*, ¶¶139-141. Such advantages include using a single banner or frame for content instead of needing to create various banners or frames of different sizes to accommodate a plurality of user display sizes. *Votipka*, 5:63-6:4 ("The same banner may be used regardless of the size of the web page used with it, or resolution or size of the user's display."). Further, *Votipka* teaches advantageously allowing a banner to "adjust to expand to the size of the web page window rather than display resolution, and accordingly, may be used to automatically adjust in width as the user adjusts the web page window." *Votipka*, 6:7-11. A POSITA would thus have been motivated to modify *Slivka* to capture *Votipka*'s advantages by automatically resize frame width based on received time-varying content. *Dec*, ¶¶139-141. Indeed, such automatic resizing would have allowed *Slivka* to automatically adjust frame size to

take up less room for content such as sports scores versus a news story featuring a large resolution image. *Dec*, ¶¶139-141.

A POSITA also would have had a reasonable expectation of success when making such a modification to *Slivka*. *Dec*, ¶¶139-141. *Slivka* and *Votipka* all teach using HTML instructions, such that modifying *Slivka* according to *Votipka*'s teachings would have required merely changes to a set of HTML instructions. *Dec*, ¶¶139-141. *Votipka* teaches an example of HTML code for the invention, which is less than two dozen "lines" in length. *Votipka*, 5:20-35 ("Table 1"). Thus, such a modification using well known HTML instructions would thus not have required undue experimentation. *Dec*, ¶¶139-141.

B. Claim 17: The method of claim 14, wherein modifying the feature of the viewer graphical user interface comprises adjusting a size of the frame of the viewer graphical user interface.

See supra Claims 5 and 14.

VII. GROUND 3: CLAIMS 12 AND 24 ARE OBVIOUS OVER *SLIVKA* IN VIEW OF *POWELL* AND *ANABUKI*

A. Claim 12(Pre): The client computing device of claim 1, wherein the one or more computer program modules are further configured:

Slivka in view of *Powell*, renders obvious Claim 1. *See supra* Claim 1. *Slivka* teaches one or more computer program modules. *See supra* Claim 1(b).

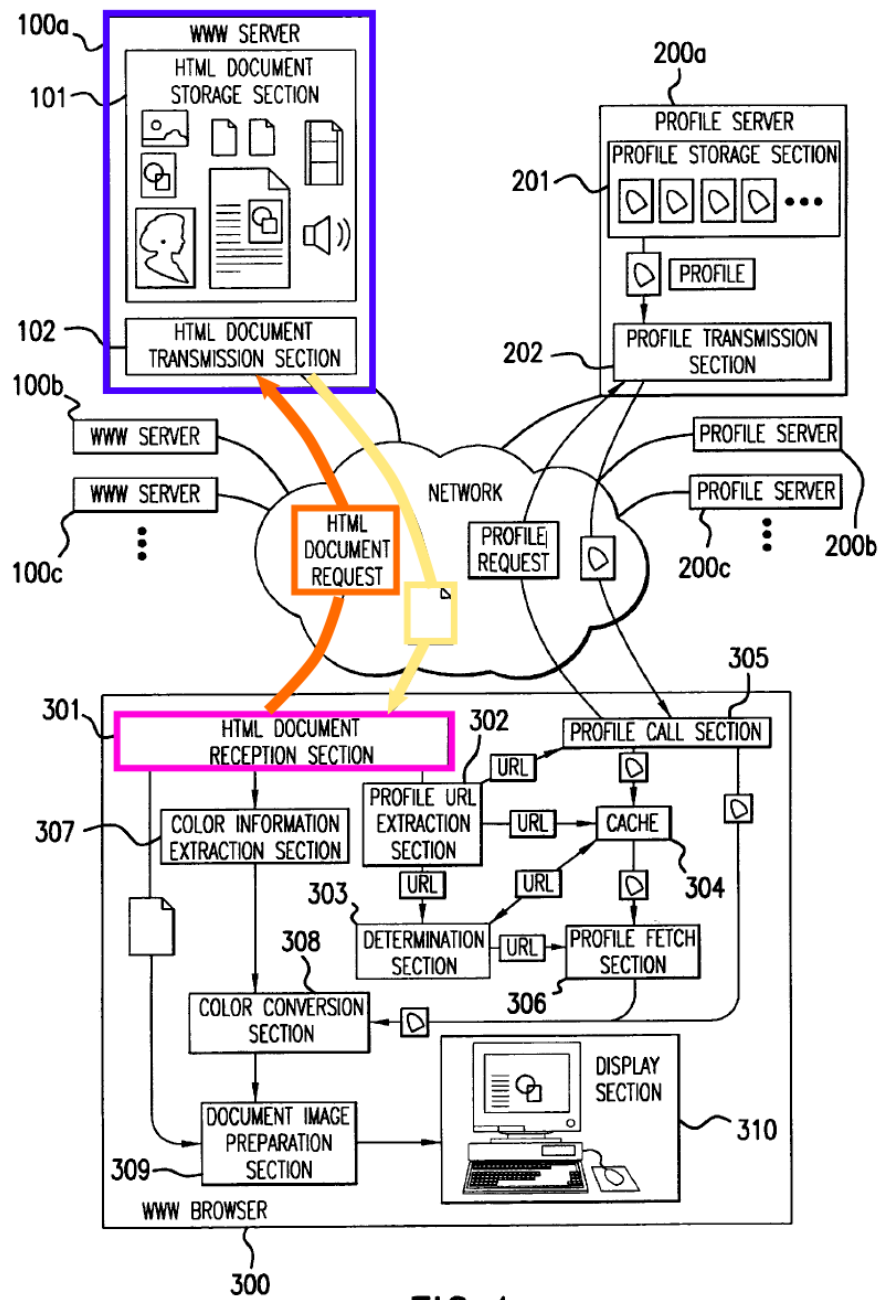
B. Claim 12(a): to transmit, over the network to a networked information monitor server, a request for the networked information monitor template

1. *Slivka's Teachings*

As discussed above, *Slivka* teaches one or more processors configured to perform computer processing functions (“computer program modules”). *See supra* Claim 1. While *Slivka* does teach the claimed NIM template, *Slivka* does not expressly teach transmitting a request to the server over the network for such NIM template. *Slivka*, however, does teach obtaining HTML instructions (NIM template) from a variety of sources. *See supra* Section IV.A (discussing how a set of HTML instructions can come from local files or from the Internet) and *Anabuki* more specifically discloses requesting a set of HTML instructions from a server.

2. *Anabuki's Teachings*

Anabuki teaches a user request for an HTML document stored at an “HTML document storage section 101” of a remote server, and “HTML document transmission section 102” of the remote server transmits the requested HTML document to the requesting user. *Anabuki*, 10:4-13, 11:54-12:24, 13:17-19.



Anabuki, FIG. 4 (annotated).

3. *Motivation to Modify Slivka*

A POSITA would have been motivated to modify *Slivka* (or *Slivka-Powell*) to store sets of HTML instructions for generating HTML frames at a server to be downloaded upon request. *Dec.*, ¶¶144-151. In the underlying Ground 1 mapping, *Powell's* teachings are used for the content request limitations for Claim 1. Namely, Ground 1 established that it would have been obvious to use a URL per *Powell's* teachings as the content reference in *Slivka*. In Ground 2, the *Slivka-Anabuki* combination relates specifically to modifications to obtaining sets of HTML instructions from a server. A POSITA would have understood that the proposed modifications to *Slivka* in light of *Anabuki's* teachings are unrelated to the proposed modifications to *Slivka* in light of *Powell* and would have viewed both sets of modifications as compatible within *Slivka's* system when implemented at the same time. *Dec.*, ¶¶144-151. For simplicity, because the proposed modifications focus on modifying *Slivka's* native teachings in view of *Anabuki*, the below discussion refers to a *Slivka-Anabuki* combination. Technically, however, Ground 2 challenges claims 5 and 17 based on a combination of *Slivka*, *Powell*, and *Anabuki*.

For example, a POSITA would have been motivated to modify a server from which *Slivka* already downloads content to store at least one set of HTML instructions for downloading in addition to said content. *Id.* Indeed, downloading resources such as sets of HTML instructions from a server was commonplace, with

Slivka already teaching retrieving content (e.g., sports and news information) from a server over the Internet. *Slivka*, 19:7-9. While *Slivka* does not expressly teach requesting to download sets of HTML instructions, such would have been a straightforward modification in light of *Anabuki's* teachings. *Id.* A POSITA would have understood that such a modification would not have required extensive additional memory or storage capacity because a set of HTML instructions would have required only a small amount of memory/storage capacity. *Id.* Such a modification would have advantageously allowed requesting and acquiring a set of HTML instructions to implement an HTML frame, for example to update an existing HTML frame to a newer version or to implement a new HTML frame (e.g., featuring stock market information, weather conditions, or some other information the user desires). *Id.* Indeed, modifying *Slivka* according to *Anabuki's* teachings would have merely been use of a known technique to improve *Slivka's* computer system (both local client and remote server) in the same way as *Anabuki's* system. *Id.*

A POSITA also would have had a reasonable expectation of success when modifying *Slivka* according to *Anabuki's* techniques. *Id.* For example, storing resources (such as sets of HTML instructions) at a server was already well known. *Id.* Indeed, a POSITA would have understood that a primary function of a server is to provide content and resources to requesting client devices. *Id.* *Slivka* already teaches at least one server that stores content for download (e.g., images and text).

Slivka, 19:1-11; *Dec.*, ¶¶144-151; *see also supra* Claim 1. Further, requesting a resource (e.g., sets of HTML instructions) from a server and downloading said resource was a typical, well-known client-server interaction, with *Anabuki* teaching one example. *Dec.*, ¶¶144-151. Thus, a POSITA would have understood that modifying *Slivka*'s server to store at least one set of HTML instructions and modifying *Slivka*'s computer system to request and download a set of HTML instructions from a server would thus have been straightforward modifications and would not have required undue experimentation. *Id.* Further, because *Slivka*'s sets of HTML instructions would have required only a small amount of memory for storage at a server, modifications to *Slivka*'s server (which already stores content) would have been minor; thus, a POSITA would have appreciated a reasonable expectation of success when making such a modification. *Id.*

C. Claim 12(b): to receive, from the networked information monitor server over the network, the networked information monitor template; and

As discussed above, *Slivka-Anabuki* renders obvious transmitting a request for the NIM template to the server over the network. *See supra* Claim 12(a). *Slivka-Anabuki* further teaches that in response to such request, a set of HTML instructions is received from the server over the Internet. More specifically, *Anabuki* teaches that “HTML document transmission section 102 [of its remote server] transmits the requested document and data [(set of HTML instructions)] to the requester.”

Anabuki, 10:4-13, 11:54-12:24, 13:17-19. A POSITA would have understood that in response to requesting and downloading a set of HTML instructions from a server, such set of HTML instructions would have been received consistent with *Anabuki*'s teachings. *Dec.*, ¶152.

D. Claim 12(c): to store the networked information monitor template to the electronic storage.

See supra Claims 12(a), 12(b). As discussed above, *Slivka* teaches storing sets of HTML instructions (“NIM templates”) locally in memory system 26. *See supra* Claim 1. A POSITA would have understood or found obvious that in response to requesting and downloading a hypertext page or set of HTML instructions (“NIM template”) from a server, the modified *Slivka* would have stored such hypertext pages or HTML instruction sets locally in memory system 26 in the same way. *Dec.*, ¶153; *see supra* Claim 12(a).

E. Claim 24(Pre): The method of claim 13, further comprising:

See supra Claims 12(Pre) and 13.

F. Claim 24(a): prior to storing the networked information monitor template to the electronic storage, transmitting, over the network to a networked information monitor server, a request for the networked information monitor template; and

See supra Claims 12(a) and 13.

G. Claim 24(b): receiving, from the networked information monitor server over the network, the networked information monitor template.

See supra Claims 12(b) and 13.

VIII. THE BOARD’S DISCRETION UNDER 35 U.S.C. § 314(a)

Under the “*Fintiv* factors,” the Board may consider parallel litigation, including an early trial date, in determining whether to institute under 35 U.S.C. § 314(a). *NHK Spring Co., Ltd., v. Intri-Plex Technologies, Inc.*, IPR2018-00752, Paper 8, 19–20 (PTAB Sept. 12, 2018) (precedential); *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, 2–3, 6 (PTAB Mar. 20, 2020) (precedential). Director Vidal recently issued a memorandum setting forth Interim *Fintiv* Guidance (“*Fintiv Memo*”).⁹ One component of this interim guidance clarifies that “the PTAB will not discretionarily deny institution of an IPR or PGR in view of parallel district court litigation where a petitioner stipulates not to pursue in a parallel district court proceeding the same grounds as in the petition or any grounds that could have reasonably been raised in the petition.” *Fintiv Memo*, 7. Referred to as a *Sotera* stipulation, “[t]his clarification avoids inconsistent outcomes between the PTAB and the district court and allows the PTAB to review grounds that the parallel district court litigation will not resolve.” *Id.* at 7–8. Consistent with this new guidance, Petitioner stipulates that, if the instant IPR is instituted, it will not pursue in the parallel district court proceeding the same grounds as in the petition or any grounds

⁹https://www.uspto.gov/sites/default/files/documents/interim_proc_discretionary_denials_aia_parallel_district_court_litigation_memo_20220621.pdf.

that could have reasonably been raised in the petition. Accordingly, the Board should not discretionarily deny institution under *Fintiv*.¹⁰

The *Fintiv Memo* is “binding agency guidance” to the Board. *Fintiv Memo*, 3.

IX. CONCLUSION

For the forgoing reasons, Petitioner respectfully requests *inter partes* review of the Challenged Claims of the ’407 Patent.

Respectfully submitted,

BY: /s/ Paul R. Hart

COUNSEL FOR PETITIONER

¹⁰ The Board recently confirmed that, pursuant to the *Fintiv Memo*, the remaining *Fintiv* factors need not be assessed where a petitioner agrees to a *Sotera* stipulation. IPR2022-00286, Paper 12 at 8-9 (“Because our analysis of Petitioner’s stipulation alone requires us to not exercise our discretion to deny institution under § 314(a), we need not address the parties’ remaining arguments as to application of the *Fintiv* factors to the facts in this case.”).

X. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(a)(1)

A. Real Party-In-Interest

Apple Inc. is the real party-in-interest. 37 C.F.R. § 42.8(b)(1).

B. Related Matters

Pursuant to 37 C.F.R. § 42.8(b)(2), Apple identifies the following matters related to the '407 Patent:

- Samsung Electronics Co., Ltd. v. DoDots Licensing Solutions LLC, IPR2023-00701
- DoDots Licensing Solutions LLC v. Apple Inc. et al, 6:22-cv-00533, (W.D.Tex. May 24, 2022)
- DoDots Licensing Solutions LLC v. Samsung Electronics Co., Ltd. et al, 6:22-cv-00535, (W.D.Tex. May 24, 2022)

C. Lead and Back-Up Counsel

Petitioner provides the following designation and service information for lead and back-up counsel. 37 C.F.R. § 42.8(b)(3) and (b)(4).

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CLAIMS LISTING APPENDIX

U.S. Patent No. 8,521,407 for Claims 1-24

Claim Designation	Claim Language
Claim 1(Pre)	A client computing device configured to access content over a network, the client computing device comprising:
Claim 1(a)	electronic storage configured to store networked information monitor template associated with a networked information monitor, the networked information monitor template having therein a definition of a viewer graphical user interface having a frame within which time-varying content in a web browser-readable language may be presented on a display associated with the client computing device, wherein the frame of the viewer graphical user interface lacks controls for enabling a user to specify a network location at which content for the networked information monitor is available; and
Claim 1(b)	one or more processors configured to execute one or more computer program modules, the one or more computer program modules being configured to access the networked information monitor defined by the networked information monitor template, wherein accessing the networked information monitor defined by the networked information monitor template results in:
Claim 1(b)(i)	transmission, over a network to a web server at a network location, of a content request for content to be displayed within the frame of the viewer graphical user interface defined by the networked information monitor template;
Claim 1(b)(ii)	reception, over the network from the web server at the network location, of content transmitted from the web server in response to the content request, the content being time-varying;
Claim 1(b)(iii)	presentation, on the display, of the viewer graphical user interface defined by the networked information monitor template outside of and separate from any graphical user interface of any other application; and
Claim 1(b)(iv)	presentation, on the display within the frame of the viewer graphical user interface defined by the networked information monitor, of the time-varying content received from the web server.

Claim Designation	Claim Language
Claim 2	The method of claim 1, further comprising, responsive to reception of one or more elements included in the received time-varying content, modifying a feature of said viewer graphical user interface defined by the networked information monitor template in accordance with a modification corresponding to the received one or more elements.
Claim 3	The client computing device of claim 2, wherein said modification corresponding to the received one or more elements comprises a modification to an image defined by the networked information monitor template as forming a part of said viewer graphical user interface.
Claim 4	The client computing device of claim 2, wherein the correspondence between the modification and the received one or more elements is defined by the networked information monitor template.
Claim 5	The client computing device of claim 2, wherein the one or more computer program modules and the networked information monitor template are configured such that modifying the feature of the viewer graphical user interface comprises adjusting a size of the frame of the viewer graphical user interface.
Claim 6	The client computing device of claim 2, wherein the one or more computer program modules and the networked information monitor template are configured such that modifying the feature of the viewer graphical user interface comprises changing a color of a frame border or background of the viewer graphical user interface.
Claim 7	The client computing device of claim 2, wherein the one or more computer program modules and the networked information monitor template are configured such that modifying the feature of the viewer graphical user interface comprises modifying text of the viewer graphical user interface in a manner defined by the networked information monitor template.
Claim 8	The client computing device of claim 1, wherein the networked information monitor template includes a markup language file.
Claim 9	The client computing device of claim 1, wherein one or more computer program modules are configured such that the time-varying content is received from the web server over the network according to the TCP/IP protocol.

Claim Designation	Claim Language
Claim 10	The client computing device of claim 1, wherein the network location corresponds to a uniform resource locator included in the networked information monitor template.
Claim 11	The client computing device of claim 10, wherein the one or more computer program modules are further configured such that accessing the networked information monitor defined by the networked information monitor template results in transmission of the content request to the uniform resource locator included in the networked information monitor template, and the content request being transmitted according to the TCP/IP protocol over the network.
Claim 12(Pre)	The client computing device of claim 1, wherein the one or more computer program modules are further configured:
Claim 12(a)	to transmit, over the network to a networked information monitor server, a request for the networked information monitor template
Claim 12(b)	to receive, from the networked information monitor server over the network, the networked information monitor template; and
Claim 12(c)	to store the networked information monitor template to the electronic storage
Claim 13(Pre)	A computer-implemented method of accessing content over a network on a client computing device, the client computing device having electronic storage and one or more processors configured to execute one or more computer program modules, the client method comprising:
Claim 13(a)	storing, to the electronic storage, a networked information monitor template associated with a networked information monitor, the networked information monitor template having therein a definition of a viewer graphical user interface having a frame within which time-varying content in a web browser-readable language may be presented on a display associated with the client computing device, wherein the frame of the viewer graphical user interface lacks controls for enabling a user to specify a network location at which content for the networked information monitor is available;
Claim 13(b)	accessing the networked information monitor defined by the networked information monitor template, wherein accessing the networked information monitor defined by the networked information monitor template results in:

Claim Designation	Claim Language
Claim 13(b)(i)	transmission, over a network to a web server at a network location, of a content request for content to be displayed in the viewer graphical user interface defined by the networked information monitor template;
Claim 13(b)(ii)	reception, over the network from the web server at the network location, of content transmitted from the web server in response to the content request, the content being time-varying;
Claim 13(b)(iii)	presentation, on the display, of the viewer graphical user interface defined by the application media package template outside of and separate from any graphical user interface of any other application; and
Claim 13(b)(iv)	presentation, on the display within the frame of the viewer graphical user interface defined by the networked information monitor, of the time-varying content received from the web server.
Claim 14	The method of claim 13, responsive to reception of one or more elements included in the received time-varying content, modifying a feature of said viewer graphical user interface defined by the networked information monitor template in accordance with a modification corresponding to the received one or more elements.
Claim 15	The method of claim 14, wherein said modification corresponding to the received one or more elements comprises a modification to an image defined by the networked information monitor template as forming a part of said viewer graphical user interface.
Claim 16	The method of claim 14, wherein the correspondence between the modification and the received one or more elements is defined by the networked information monitor template.
Claim 17	The method of claim 14, wherein modifying the feature of the viewer graphical user interface comprises adjusting a size of the frame of the viewer graphical user interface.
Claim 18	The method of claim 14, wherein modifying the feature of the viewer graphical user interface comprises changing a color of a frame border or background of the viewer graphical user interface.
Claim 19	The method of claim 14, wherein modifying the feature of the viewer graphical user interface comprises modifying text of the viewer graphical user interface in a manner defined by the networked information monitor template.

Claim Designation	Claim Language
Claim 20	The method of claim 13, wherein the networked information monitor template includes a markup language file, and wherein storing the networked information monitor template comprises storing the markup language file.
Claim 21	The method of claim 13, wherein the time-varying content is received from the web server over the network according to the TCP/IP protocol.
Claim 22	The method of claim 13, wherein the network location corresponds to a uniform resource locator included in the networked information monitor template.
Claim 23	The method of claim 22, wherein accessing the networked information monitor defined by the networked information monitor template results in transmission of the content request to the uniform resource locator included in the networked information monitor template, and the content request being transmitted according to the TCP/IP protocol over the network.
Claim 24(Pre)	The method of claim 13, further comprising:
Claim 24(a)	prior to storing the networked information monitor template to the electronic storage, transmitting, over the network to a networked information monitor server, a request for the networked information monitor template; and
Claim 24(b)	receiving, from the networked information monitor server over the network, the networked information monitor template.

APPENDIX OF EXHIBITS

Exhibit 1001	U.S. Patent No. 8,510,407 (“’407 Patent”)
Exhibit 1002	Prosecution History for the ’407 Patent (“’407 FH”)
Exhibit 1003	Declaration of Loren Terveen (“Dec.”)
Exhibit 1004	U.S. Patent No. 6,061,695 to Slivka et al. (“Slivka”)
Exhibit 1005	File History of U.S. Patent No. 6,061,695 (“Slivka FH”)
Exhibit 1006	U.S. Patent No. 6,091,518 to Anabuki (“Anabuki”)
Exhibit 1007	Declaration of June Munford (“Munford Dec.”)
Exhibit 1008	PTAB - IPR2019-01279 (“Lenovo ’407 FWD”)
Exhibit 1009	<i>Lenovo Holding Company, Inc. v. DoDots Licensing Solutions LLC</i> , 21-1521, No. 16 (Fed. Cir. Dec. 8, 2021) (“Federal Circuit Claim Construction”)
Exhibit 1010	PTAB – IPR2023-00701, Paper 2 (“Samsung ’407 IPR”)
Exhibit 1011	<i>Intentionally Left Blank</i>
Exhibit 1012	<i>Intentionally Left Blank</i>
Exhibit 1013	<i>HTML: The Complete Reference</i> , Osborne/McGraw-Hill, by Thomas A. Powell 1998 (“Powell”)
Exhibit 1014	U.S. Patent No. 6,185,589 to Votipka (“Votipka”)
Exhibit 1015	U.S. Patent No. 6,031,989 to Cordell (“Cordell”)
Exhibit 1016	Dkt. 98, <i>Joint Claim Construction Statement</i>

CERTIFICATION OF WORD COUNT

The undersigned certifies pursuant to 37 C.F.R. § 42.24 that the foregoing Petition for *Inter Partes* Review, excluding any table of contents, mandatory notices under 37 C.F.R. § 42.8, certificates of service or word count, or appendix of exhibits, contains 13,932 words according to the word-processing program used to prepare this document (Microsoft Word).

Dated: May 23, 2023

BY: /s/ Paul R. Hart
Paul R. Hart, Reg. No. 59,646

COUNSEL FOR PETITIONER

**CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.105**

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105, the undersigned certifies that on May 23, 2023, a complete and entire copy of this Petition for *Inter Partes* Review including exhibits was provided via Federal Express to the Patent Owner by serving the correspondence address of record for the '407 Patent as listed on PAIR:

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Further, a courtesy copy of this Petition for *Inter Partes* Review was sent via email to Patent Owner's litigation counsel:

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