

Case IPR2023-00954
U.S. Patent No. 8,458,028

SONY INTERACTIVE ENTERTAINMENT, LLC
v.
QUANTUM IMAGING, LLC

September 13, 2024

Roadmap

- 1. '028 Patent**
- 2. Claim Construction/Interpretation**
- 3. Angles**
- 4. Robinson**
- 5. Dependent Claims**
- 6. Angles/Robinson/Ginter**

‘028 Patent

Fig. 1: Accessible at Server; Locally Executed at User

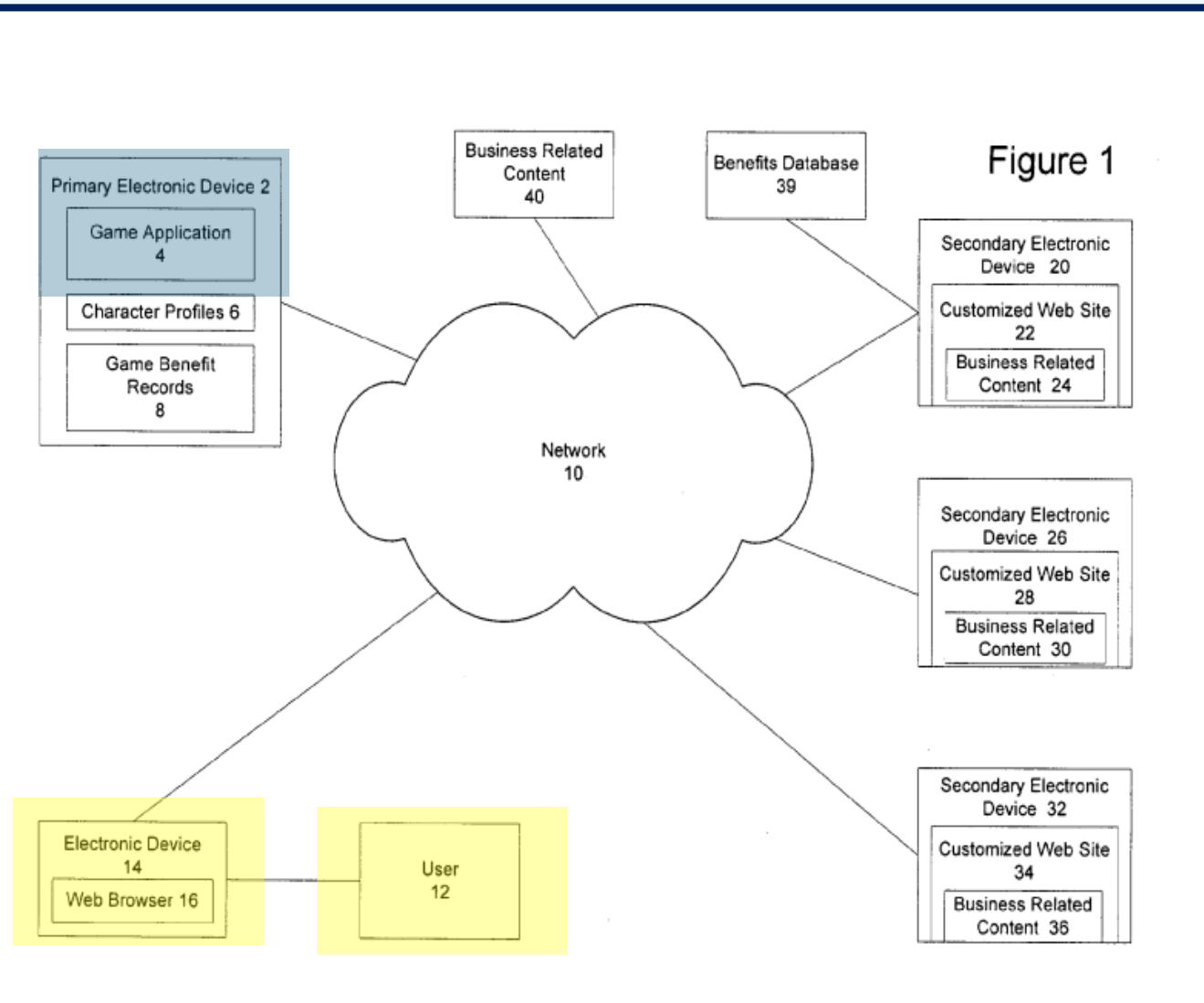
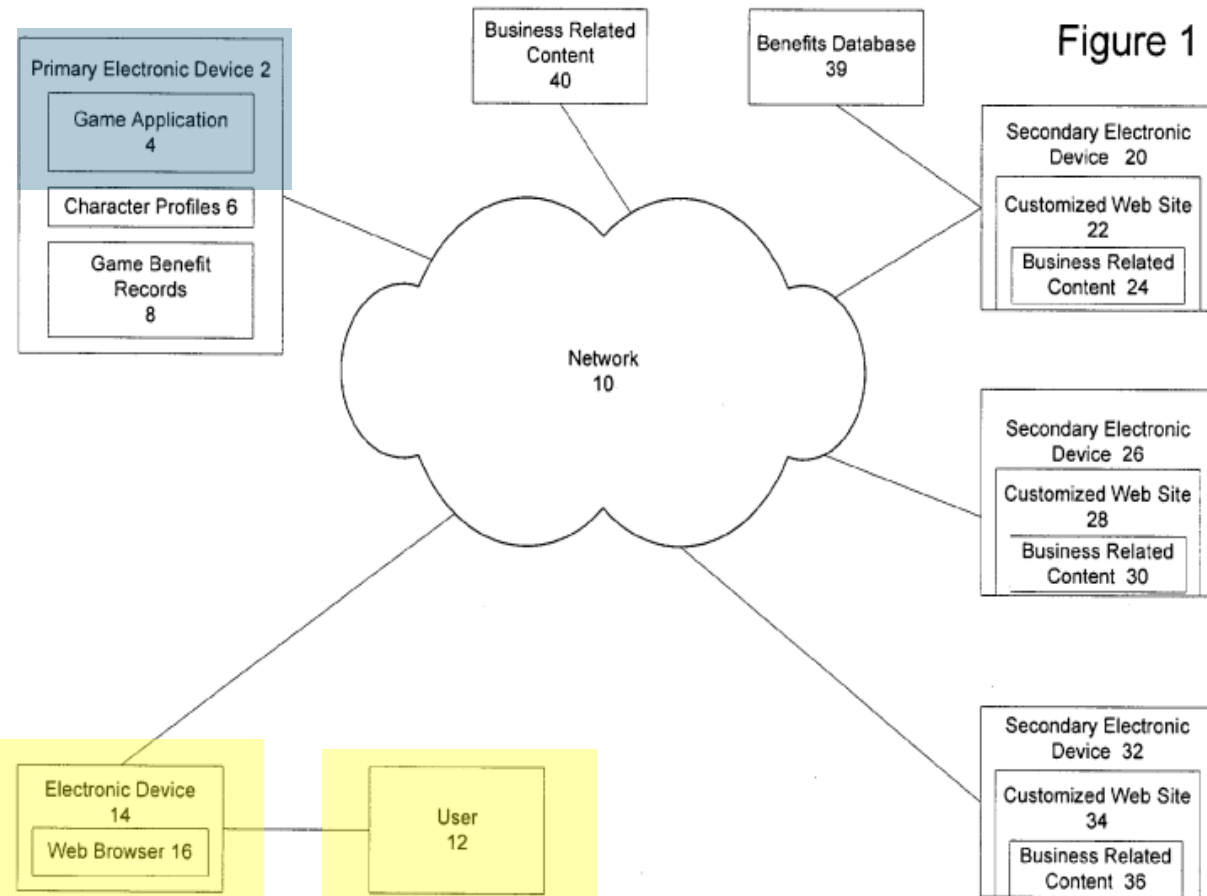


FIG. 1 depicts an environment suitable for practicing the illustrative embodiment of the present invention. A primary electronic device 2 holds a game application 4, character profiles 6, and is interfaced with the network 10. Character profiles 6 are records which track the game choices a player makes while playing the game application 4. The use of character profiles 6 is discussed further below. The network 10 may be the Internet, an Intranet, a local area network, a wide area network, a wireless network, or some other type of network. A user 12 accesses the network 10 through an electronic device 14 holding a web browser 16. Also interfaced with the network 10 are a number of secondary electronic devices 20, 26 and 32, such as web servers. Each secondary electronic device hosts a customized web site, 22, 28 and 34. Each customized web site includes business-related content 24, 30 and 36. The user 12 requests the initiation of the game application 4, and the game starts.

Ex.1001, 3:36-52

Fig. 1: Accessible at Server; Locally Executed at User



The **illustrated embodiment** of the present invention anticipates the generation of both two-dimensional and three dimensional image data for the user by the game application. In the network environment where the user is accessing the game application through a local web browser with the game application being stored on a remote site on the network, the user may receive two-dimensional data through the web browser. In such a case, the web page is retrieved to the local web browser and the graphics are rendered locally prior to displaying the page to the user. It is also anticipated within the

Ex.1001, 6:40-49

Fig. 2: Accessible at and Locally Executed at User

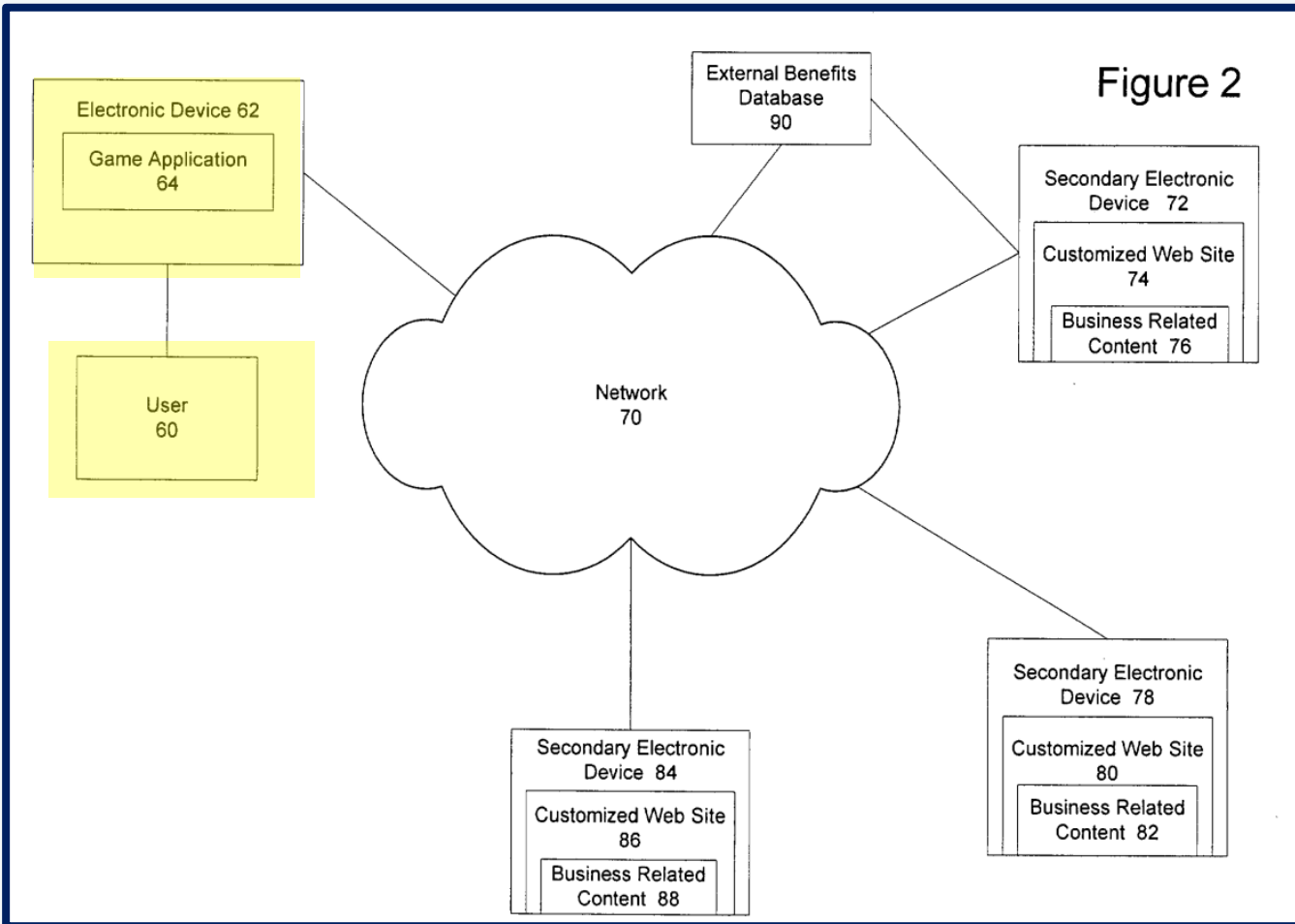


FIG. 2 depicts a block diagram of an alternate environment suitable for practicing the illustrative embodiment of the present invention where a local device holds the game application:

Ex.1001, 2:53-56

FIG. 2 depicts an alternative environment suitable for practicing the illustrative embodiment of the present invention. A user 60 accesses the game application 64 on a local electronic device 62. The local electronic device 62 may be a desktop computer, laptop computer, PDA, cellular phone or other device able to access the network 70. The local electronic device 62 is interfaced with a network 70. Also interfaced

Ex.1001, 4:3-9

Claim 1

1. A method of integrating business-related content over a computerized network, into a primary electronic device that accesses a game application, from at least one secondary electronic device that accesses business-related content on a plurality of web pages, the method comprising:

- receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

- initiating said game application at said primary electronic device;

- automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

- automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

- executing a user action on said business-related content from said secondary electronic device.

Ex.1001, 7:13-35

Claim 1, Limitation 1[A]

1[A]

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;
initiating said game application at said primary electronic device;
automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;
automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and
executing a user action on said business-related content from said secondary electronic device.

Ex.1001, 7:13-35

Claim 1, Limitation 1[C]

1[A]

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

1[C]

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

Ex.1001, 7:13-35

Claim 1, Limitation 1[D]

1[A]

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

1[C]

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

1[D]

automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

Dependent Claims

3. The method of claim 1 wherein said game application displays branded business-related content to said user.

4. The method of claim 3 wherein said branded business-related content is dynamically updated.

5. The method of claim 1, comprising the further steps of: executing game-related user actions in said game application as a result of user choices; and generating a player profile based on said user choices made during said game application; wherein the player profile is specific to said user.

6. The method of claim 5 wherein said player profile is disseminated to providers of business-related content used in said game application.

Construction/Interpretation

“Game Application”

Petition	Decision	POR	Reply	Sur-Reply
“no express constructions of the claims are necessary”	“we need not expressly construe any claim terms”	“no [] express claim constructions are required”	“a program designed to assist in the performance of a game”	“no construction [is] required, including for ‘game application.’”
Pet. 12-13	Decision 15	POR 2	Reply 9, 25	Sur-Reply 4

Petitioner's Late Construction

Reply

Reply 9

For example, consistent with dictionary definitions in 2002, the POSITA would have understood an application to be “a program designed to assist in the performance of a specific task.” (Ex. 1017, 31; Ex. 1025, ¶¶9-10.) The

Ex.1017, 31

application n. A program designed to assist in the performance of a specific task, such as word processing, accounting, or inventory management. *Compare* utility.

Reply 25

This is consistent with the definition of game application described above: a program designed to assist in the performance of a game. (Ex. 1017, 31.)

Petitioner's Late Construction: Absurdly Broad

Q. Is operating system assisting in the performance of a game?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: I would say an operating system could be a program designed to assist a program to assist in the performance of a game.

By MR. RAFATIJO:

Q. Therefore, an operating system assists in the performance of a game; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: Again, as I said, I think an operating system could assist a program to assist in the performance of a game.

Ex.2016, 38:4-16

Petitioner's Late Construction: POSITA Disagrees



Nenad Medvidović

Professor and Chair, CS Department
Editor-in-Chief, IEEE TSE
Viterbi School of Engineering
University of Southern California

Q. What's the understanding of "game application" that you applied when you analyzed this claim?

A. It's an application that is a game.

Q. That's your understanding of the term?

A. Yes. And if there is another understanding that I'm supposed to have in mind, I'm happy to consider it.

But a game application is an application that is a game, and a person of ordinary skill in the art would readily know that.

Ex.1023, 51:8-18

Petition Undermines Petitioner's Late Construction

A. Summary of the '028 Patent

The '028 Patent, titled “System and Method for Integrating Business-related Content into an Electronic Game,” relates “generally to electronic games and more particularly to the integration of business-related content into a computer game.”

The “Brief Summary of the Invention” of the '028 Patent describes its invention as providing “a method of seamlessly integrating business-related content into the subject matter of an electronic game.” *Id.*, 1:36-37. More

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

**Petition equates
the two**

Pet. 21-22 (citing
Ex.1004, ¶109)

109. Angles teaches **operating a locally executed game application that is accessible at said primary device** in the form of a Web Browser (*See* ¶84). As noted in section IX.A.3, **a POSITA would have recognized** a Web Browser to be a locally executed gaming application, and that **the claimed locally executed game application** would be, by definition **accessible at said primary electronic device.**

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

Petition equates
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Pet. 21-22 (citing
Ex.1004, ¶109)

109. Angles teaches **operating a locally executed game application that is accessible at said primary device** in the form of a Web Browser (See ¶84). As noted in section IX.A.3, **a POSITA would have recognized** a Web Browser to be a locally executed gaming application, and that **the claimed locally executed game application would be, by definition accessible at said primary electronic device.**

Q. Okay. And in claim -- do you have an understanding of the claim term "locally executed game application" in independent claim element i[a]?

A. I do.

Q. What is your understanding with regard to that claim term?

A. **If I'm sitting at a computer and I'm executing a game application on my computer, that computer is local to me, so it's locally executed.**

Q. Okay. Do you have an understanding of accessible at said primary electronic device?

A. **Same thing.**

POR 19 n.1 (citing Ex.2005, ¶35 (citing Ex.2009, 215:23-216:14))

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

Petition confuses
accessible at with
accessible over

As discussed in the prior section, the “offering” can be an online game accessible over the Internet and a consumer browser module running on the consumer computer can be a locally executed game application. *Id.*, 10:46-50

Pet. 22

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

Decision



consumer computer. *Id.* at 22 (referencing Ex. 1007, 10:46–50). Petitioner contends that a person having ordinary skill in the art would have understood that a browser residing on a local computer makes the accessed game application locally execute. *Id.* (referencing Ex. 1004 ¶¶ 72, 84, 109, 112).

position. Petitioner relies on Mr. Crane’s testimony to support the contention that initiating and accessing an online game using a local browser results in a locally executed game application. *See* Pet. 22. Mr. Crane

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

POR

Locally
Executed

server.” Ex-1001, 1:37-40. Both experts agree that “[a] locally executed game application is a game application that is running on your computer,” that is, “[t]he computer you are sitting at locally.” Ex-2009, 276:13-21; Ex-2005, ¶31-32.

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

POR

Locally
Executed



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server.” Ex-1001, 1:37-40. Both experts agree that “[a] locally executed game application is a game application that is running on your computer,” that is, “[t]he computer you are sitting at locally.” Ex-2009, 276:13-21; Ex-2005, ¶31-32.

POR 20

32. A POSITA reading the ‘028 Patent would also understand that a locally executed game application is a game application that is “executed on a local device.” Ex. 1001, 1:38. The local device is a device that is used by a user. A game application is not executed locally if it is executed “via a network connection to a remote server.” *Id.*, 1:39. Thus, I agree with Mr. Crane’s statement that “[a] locally executed game application is a game application that is running on your computer,” that is, “[t]he computer you are sitting at locally.” Ex. 2009, 276:13-21.

Ex.2005, ¶32

POR 19-21

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

23

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

POR

Accessible at

Regarding the second requirement, the game application must be accessible at the primary electronic device—not merely from the primary electronic device via network communication. Ex-2005, ¶33-35. Given the plain and ordinary meaning of the preposition “at,” the claim unequivocally requires that the game application be entirely held by the same primary electronic device at which it is locally executed—the claim requires that the game application is both held and executed at the local device. Ex-2005, ¶¶44, 49. The specification underscores this

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

POR

Accessible at



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40. The following fourfold contingency table summarizes the foregoing discussion in Paragraphs 30-39 from the perspective of a user playing the game. The examples in this table are not meant to be exhaustive.

	Accessible At	Not Accessible At
Locally Executed	Play a game on a user’s device by inserting a CD-ROM containing the game application	Online Games
Not Locally Executed	Game housed on the server device with no need for relying on input/output device	Remote Play

Ex.2005, ¶40

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

Petitioner's
Expert Agrees

Accessible at

Q. Okay. Did you have a understanding of how POSITA prior to the priority date would define term "online game" as used here at column 21, line 58?

A. An online game is a game with an online component.

Q. And when you say an online component, are there local players to that online component?

A. In a client server game, the -- what goes on in the client is local, what goes on in the server is an online component, and the two communicate over the Internet.

Ex.2009, 230:1-11

“Locally Executed Game Application that is Accessible at [] Primary Electronic Device”

Specification confirms

Accessible at

In one aspect of the illustrative embodiment of the present invention, a primary electronic device holding a game application is part of a network along with a secondary electronic device holding business-related content. The primary elec-

In another aspect of the illustrative embodiment of the present invention, an electronic device holding a game application is interfaced with a network. The network has at least

In an aspect of the illustrative embodiment of the present invention, a system includes a primary electronic device holding a game application. The game application is initiated in response to a user request. The system also includes a virtual

In a further aspect of the illustrative embodiment of the present invention a network includes a primary electronic device holding a game application and at least one secondary electronic device holding business-related content. A virtual

FIG. 2 depicts a block diagram of an alternate environment suitable for practicing the illustrative embodiment of the present invention where a local device holds the game application:

FIG. 1 depicts an environment suitable for practicing the illustrative embodiment of the present invention. A primary electronic device 2 holds a game application 4, character

game application through a local web browser with the game application being stored on a remote site on the network, the

requirements, three dimensional data may be received from the remote site holding the game application. In such a case,

Ex.1001, 1:64-67; 2:5-7; 2:17-19; 2:20-22; 2:32-35; 2:53-56; 3:36-46; 6:10-22; 6:40-45

“web browser is a locally executed game application accessible at the user’s device”

Reply

Reply 9

TerraZones web browser fits squarely within this definition, because it is a program designed to assist in the performance of a game, e.g., the Cronos game

Reply 13

browser configurations known by 2002. Medvidovic’s web browsers are game applications: they are computer programs that assist in performing a game (i.e.,

Reply 14

24-25.) But as explained in the Petition, Angles’ online games can be played via a web browser, which is a locally executed game application accessible at the user’s device. (Petition, 22.) Moreover, as described above, “all the game logic” may be

“web browser is a locally executed game application accessible at the user’s device”

Reply

Ex.1025, ¶34

34. For the reasons described below, the POSITA would understand Dr. Medvidovic’s textbook to be consistent with a web browser meeting the limitation *locally executed game application that is accessible at said primary electronic device* that appears in claim 1 of the ’028 patent. Conversely, the POSITA would understand Dr. Medvidovic’s textbook to be inconsistent with the Patent Owner’s position that a web browser cannot meet that limitation.

“web browser is a locally executed game application accessible at the user’s device”

Reply

Ex.1025, ¶29

29. In the prosecution history, the applicant represented that in the TerraZones storyboard, “a primary electronic device accesses a game application, to thereby locally execute the game application.” (Ex. 1003, 107-08.) Based on the TerraZones storyboard, the POSITA would understand that the applicant was referring to the Microsoft Internet Explorer web browser, locally executing on a user’s computer and accessible at that user’s computer, as shown in the TerraZones storyboard in at least pages 123-24. Ex. 1003, 123-24; Ex. 1020, BT00014843-846.) The POSITA would understand the applicant to have meant that the user’s computer (the primary electronic device) accesses the web browser (the game application) to locally execute the web browser, for at least the reasons described above.

POSITA Disagrees



Nenad Medvidović

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University of Southern California

Q. Would a person of skill in the art in 2002 have considered at least some web browsers to be game applications?

MR. RAFATIJO: Objection; form.

THE WITNESS: I would be surprised if anybody considered a web browser a game application.

If there is an opinion of that sort, I'm happy to look at it. But I -- as we sit here, that would sound flawed to me.

Ex.1023, 78:3-81:1

Specification Undermines Petitioner's Position

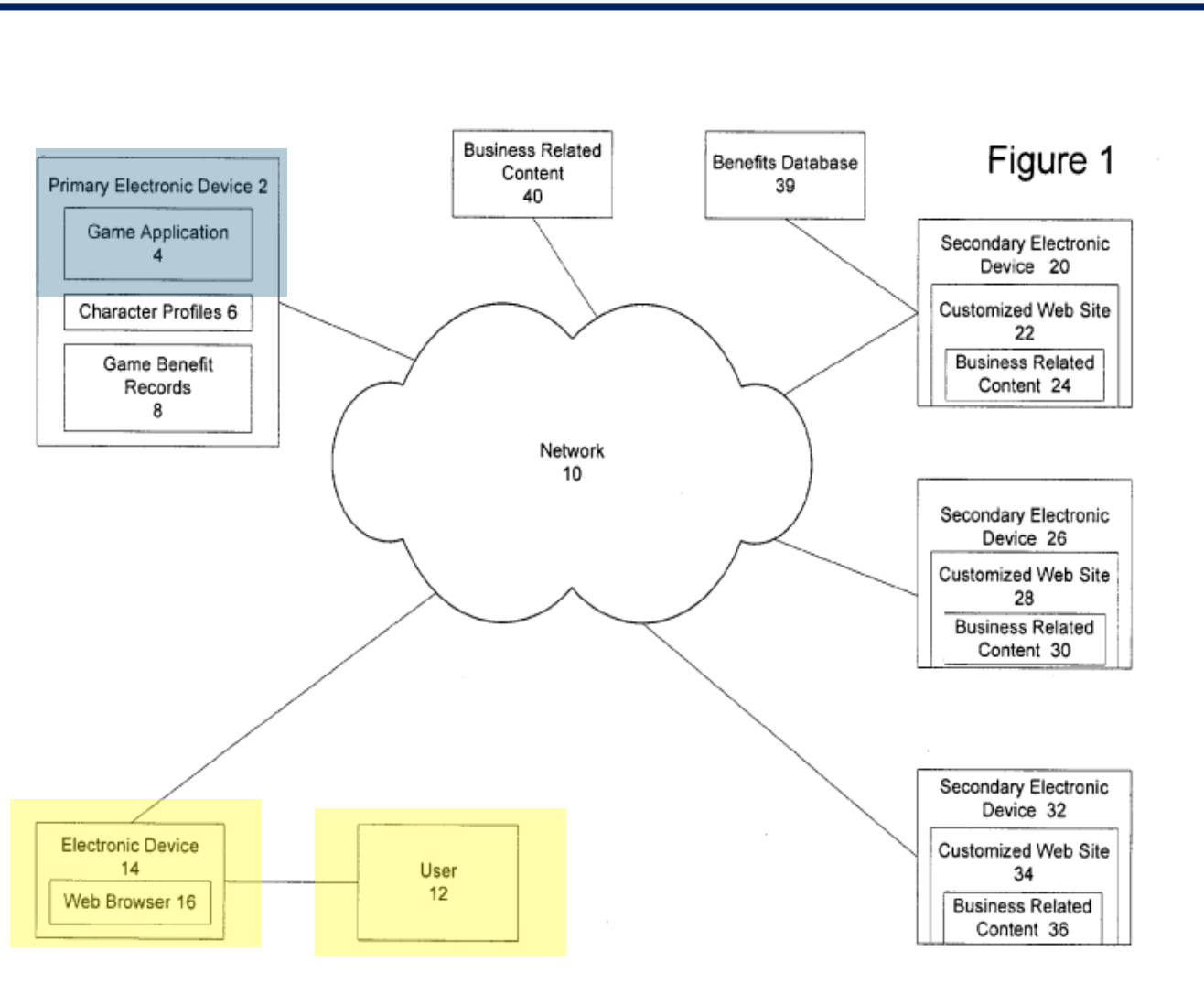


FIG. 1 depicts an environment suitable for practicing the **illustrative embodiment** of the present invention. A primary electronic device 2 holds a game application 4, character profiles 6, and is interfaced with the network 10. Character profiles 6 are records which track the game choices a player makes while playing the game application 4. The use of character profiles 6 is discussed further below. The network 10 may be the Internet, an Intranet, a local area network, a wide area network, a wireless network, or some other type of network. A user 12 accesses the network 10 through an electronic device 14 holding a web browser 16. Also interfaced with the network 10 are a number of secondary electronic devices 20, 26 and 32, such as web servers. Each secondary electronic device hosts a customized web site, 22, 28 and 34. Each customized web site includes business-related content 24, 30 and 36. The user 12 requests the initiation of the game application 4, and the game starts.

Ex.1001, 3:36-52

Web Browser: Word Processing Application

Reply 9

For example, consistent with dictionary definitions in 2002, the POSITA would have understood an application to be “a program designed to assist in the performance of a specific task.” (Ex. 1017, 31; Ex. 1025, ¶¶9-10.) The

Ex.1017, 31

application n. A program designed to assist in the performance of a specific task, such as word processing, accounting, or inventory management. *Compare* utility.

Reply 25

This is consistent with the definition of game application described above: a program designed to assist in the performance of a game. (Ex. 1017, 31.)

Web Browser: Word Processing Application

Q. So if you access Google Doc -- Google Doc on the web browser, does that make the web browser a word processing application?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: I would would say that word processing is an example of a task that a web browser can perform.

Ex.2016, 44:9-21

By MR. RAFATIJO:

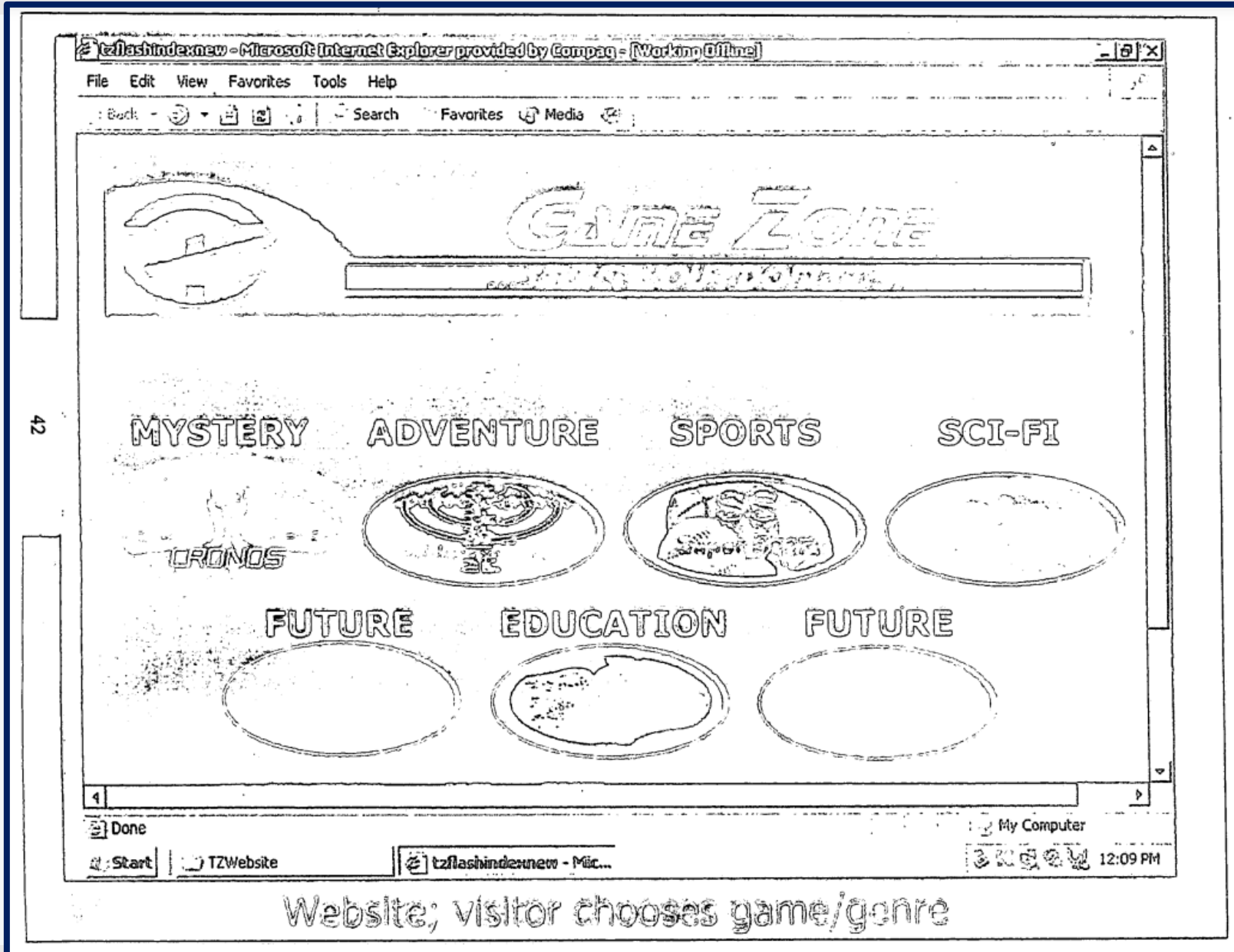
Q. And, therefore, web browser is a word processing application?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: As I say, it's a task that a web browser can perform.

Petitioner Relies on TerraZones Slide 123

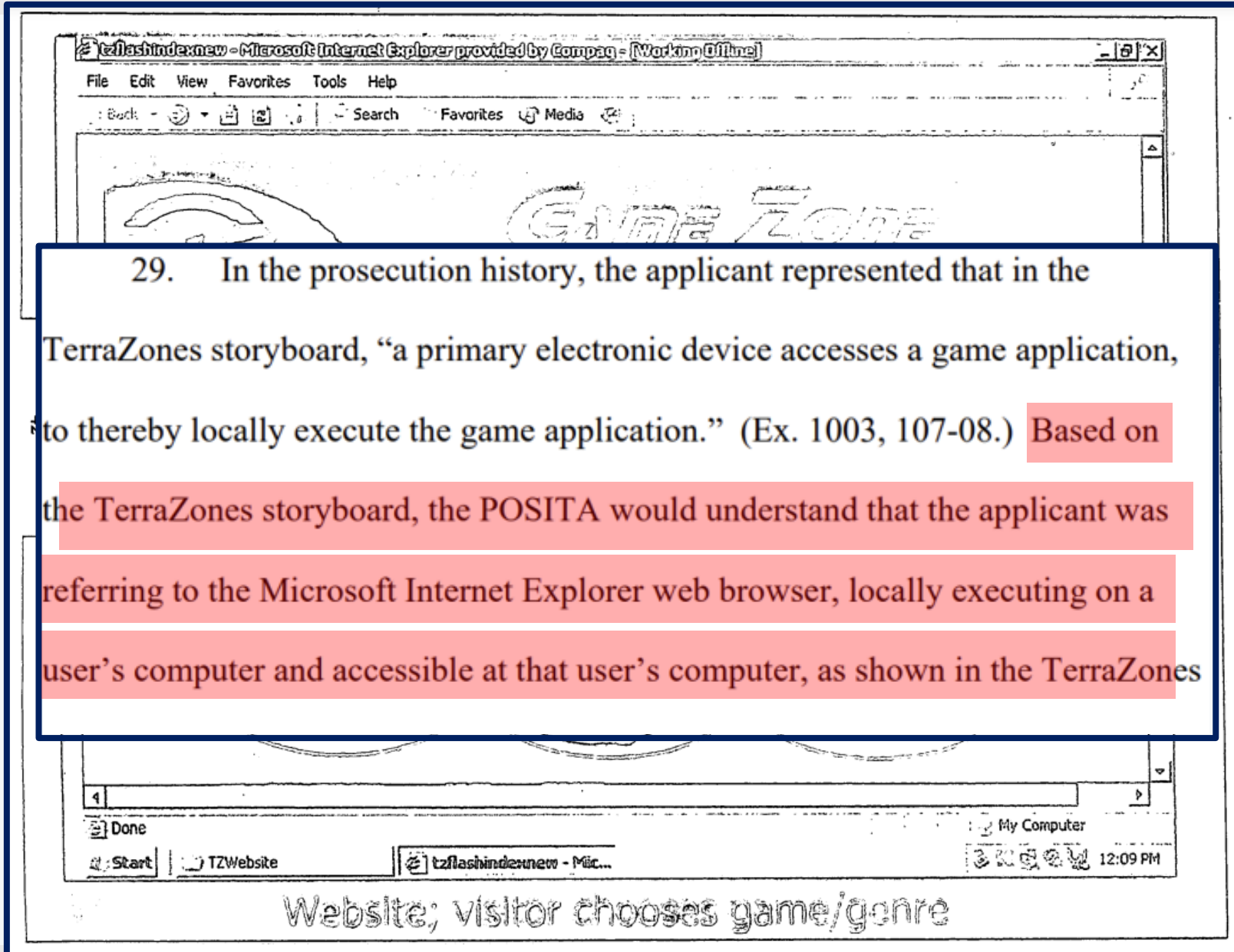
Ex.1003, 123



Petitioner Relies on TerraZones Slide 123

Ex.1025, ¶29

29. In the prosecution history, the applicant represented that in the TerraZones storyboard, “a primary electronic device accesses a game application, to thereby locally execute the game application.” (Ex. 1003, 107-08.) Based on the TerraZones storyboard, the POSITA would understand that the applicant was referring to the Microsoft Internet Explorer web browser, locally executing on a user’s computer and accessible at that user’s computer, as shown in the TerraZones



TerraZones Slide 123: “Working Offline”



Q. Okay. So the Microsoft Internet Explorer on this page is working off-line; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: That is what it says.

By MR. RAFATIJO:

Q. Can a Microsoft Internet Explorer that is working off-line access a resource on the Internet?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: A Microsoft Internet Explorer can access online or off-line elements. If it is working off-line -- at the time it's working off-line, it is probably not accessing the Internet.

Ex.2016, 58:3-16

TerraZones Slide 123: No URL



A. "URLs are used by web browsers to locate Internet resources. A URL specifies the protocol to be used in accessing the resource, such as HTTP for worldwide web page or FTP for an FTP site, the name of the server on which the resource resides, such as www.whitehouse.gov, and optionally, the path to a resource such as an HTML document or a file on that server. See also FTP definition of HTML, HTTP, path definition, server definition, virtual path definition, and web browser."

Q. Great. So do you agree with this definition?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: I don't have a problem with this definition.

THE WITNESS: Based on this definition this defines the definition of URL as a uniform resource locator which is an address for a resource on the Internet.

By MR. RAFATIJO:

Q. Okay. And does a URL specify the protocol to be used to access the resource on the Internet?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: According to this definition the protocol is one of the things specified in the URL.

Ex.2016, 53:3-58:1

TerraZones Slide 123: “File Name in the Search Bar”



Q. Well, I'm asking you, as a POSITA, if you see a universal or uniform resource locator on this slide?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: And my answers were I do not see the letters URL on this slide, and I see in the search bar or the location bar a file name that takes the place of a universal resource locator in a web browser like Internet Explorer.

By MR. RAFATIJO:

Q. But that is not the universal resource locator; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: As I said, it takes the place of a resource locator.

Q. Do you see anything that represents a uniform resource locator on this page?

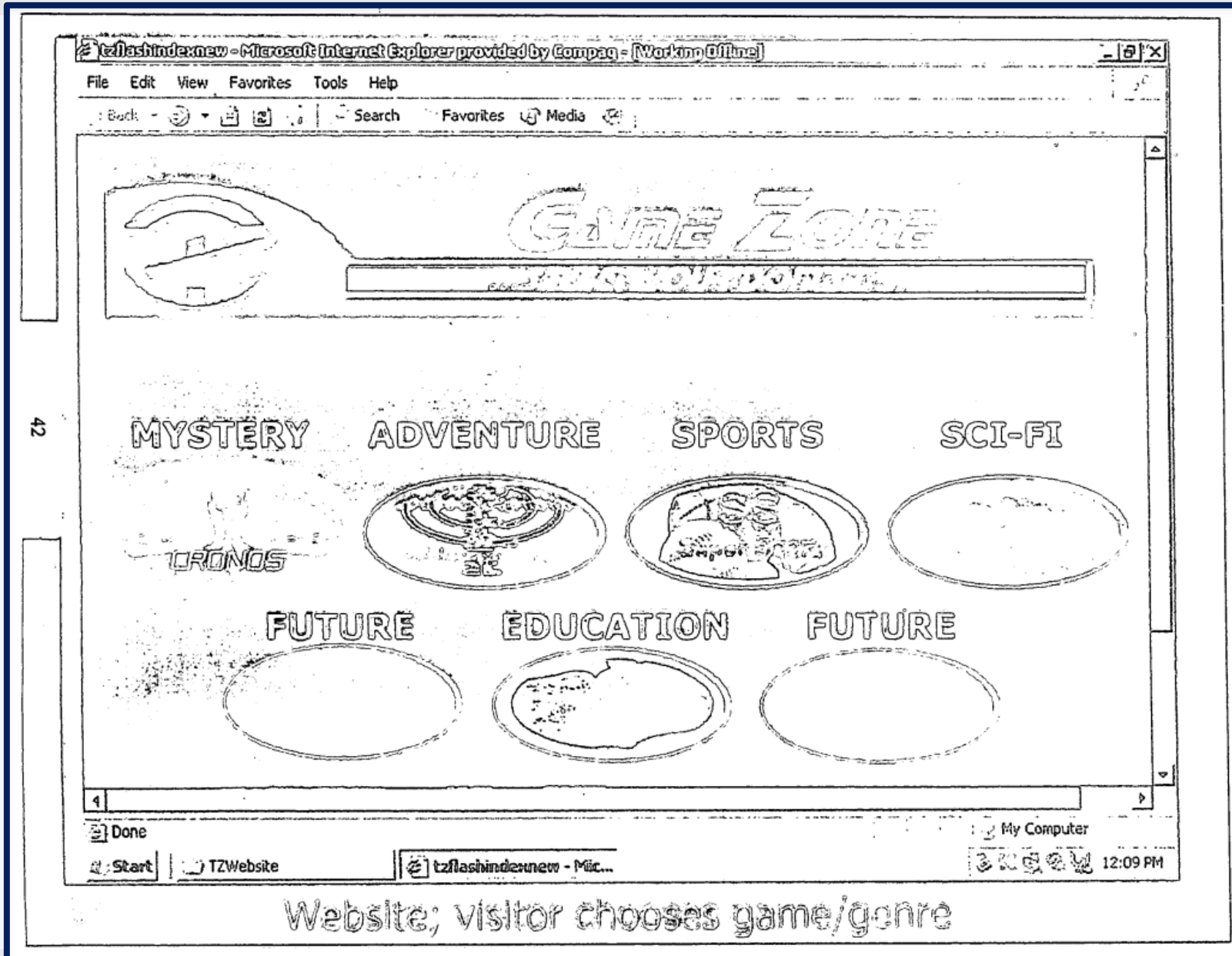
MR. BLUMENKOPF: Objection. Form.

THE WITNESS: In this slide there is a -- what looks like a file name in the search bar with a navigation bar of Internet Explorer that represents a resource locator.

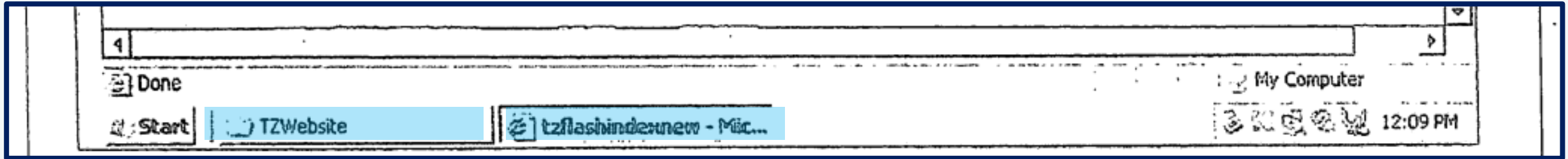
Ex.2016, 50:8-14;
52:12-20

TerraZones Slide 123

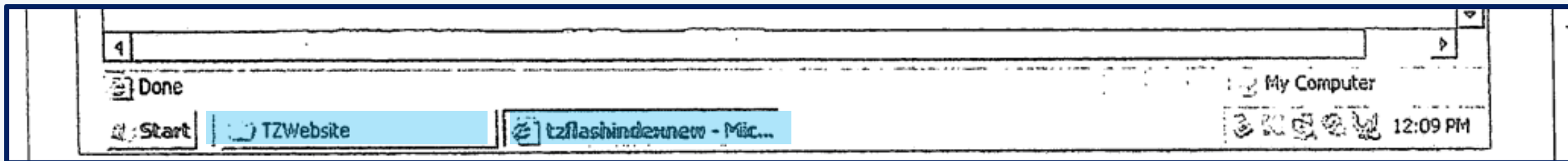
Ex.1003, 123



TerraZones Slide 123: Web View Feature

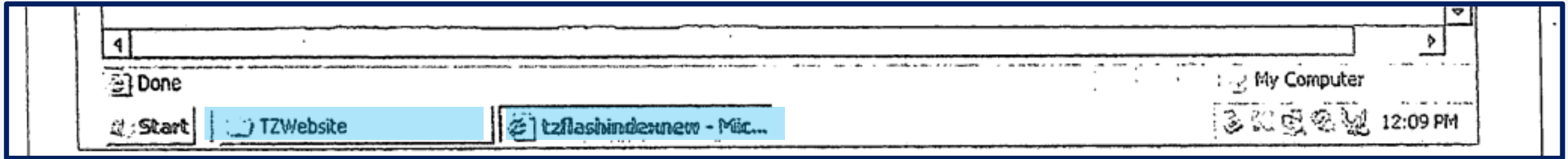


TerraZones Slide 123: Web View Feature



pages.” Ex-1022, ¶25. Incorrect. A 2002 PHOSITA would understand, Internet Explorer was used to browse directories and files *residing on user’s computer*. Ex-2016, 64:22-65:10. This feature, aka Web View, allowed users to navigate directories using Internet Explorer. The region occupied by the file list became a general-purpose display area that is effectively a webpage. Each directory could have its own HTML Web View, customized to suit particular features. With HTML Web View, users could enhance the appearance of directories and create graphics, such as depicted on prosecution history’s page 123.³

TerraZones Slide 123: Web View Feature



By MR. RAFATIJO:

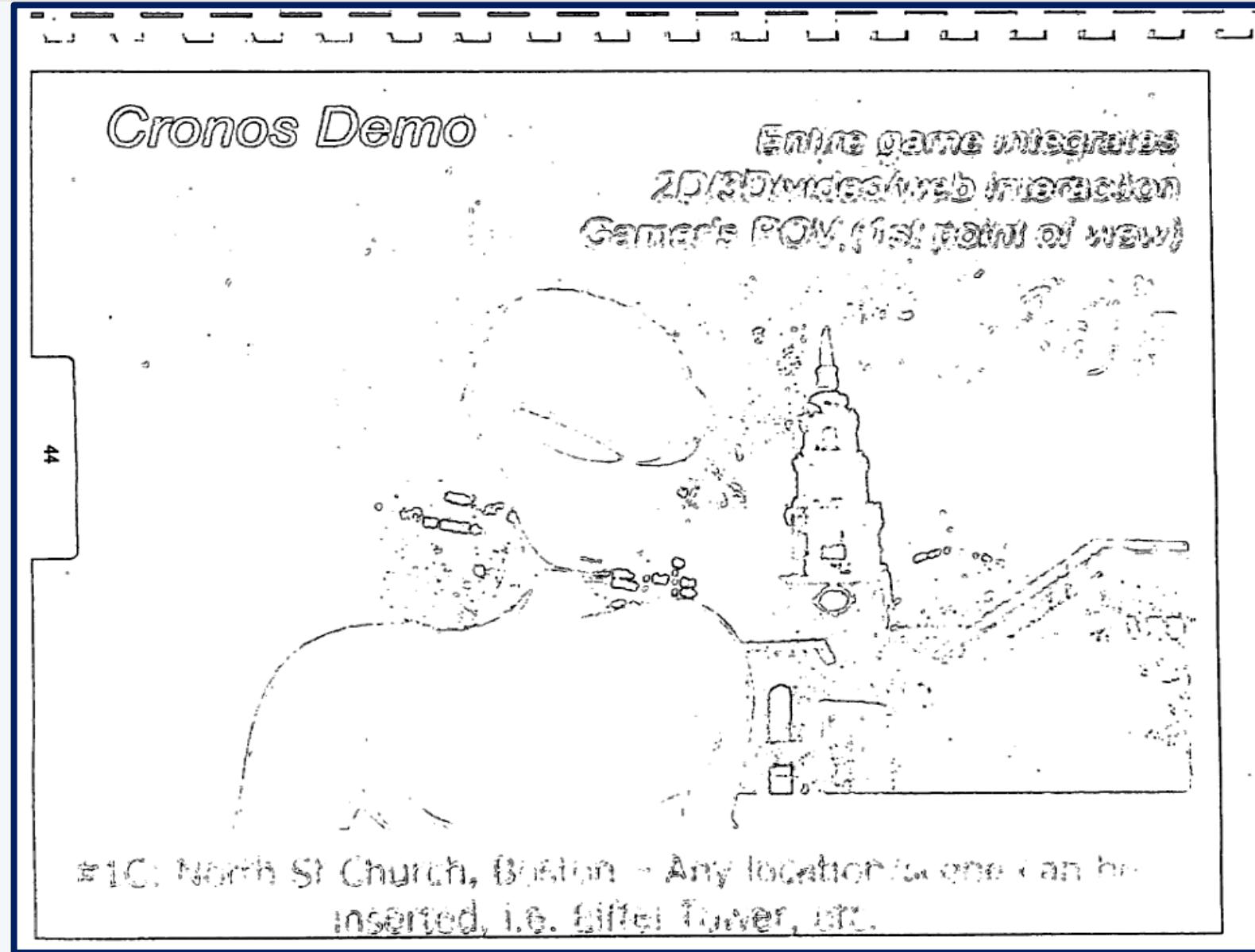
Q. Mr. Crane, can a user use as a web browser to browse files and folders on a computer?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: I believe that as of 2002 one of the features that Microsoft Internet Explorer was capable of was loading files from a computer.

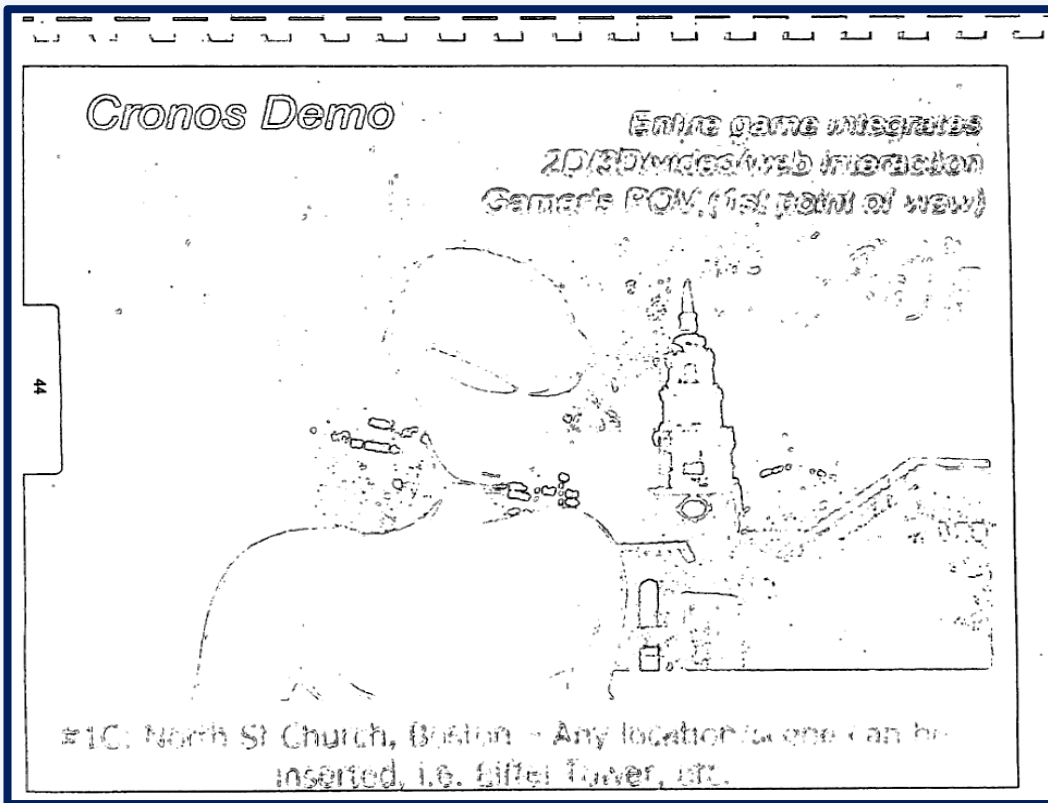
Ex.2016, 64:22-65:10

TerraZones Slide 125: The Actual Game Application



Ex.1003, 125

TerraZones Slide 125: Cronos Demo is the Game



Ex.1003, 125

Q. Sure. And I will represent to you that this is page 125 of the prosecution history.

A. Okay.

Q. Do you see -- so on page 125 do you see an Internet Explorer title bar?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: This exhibit -- well, part of other exhibits does not display the Internet Explorer title bar.

By MR. RAFATIJO:

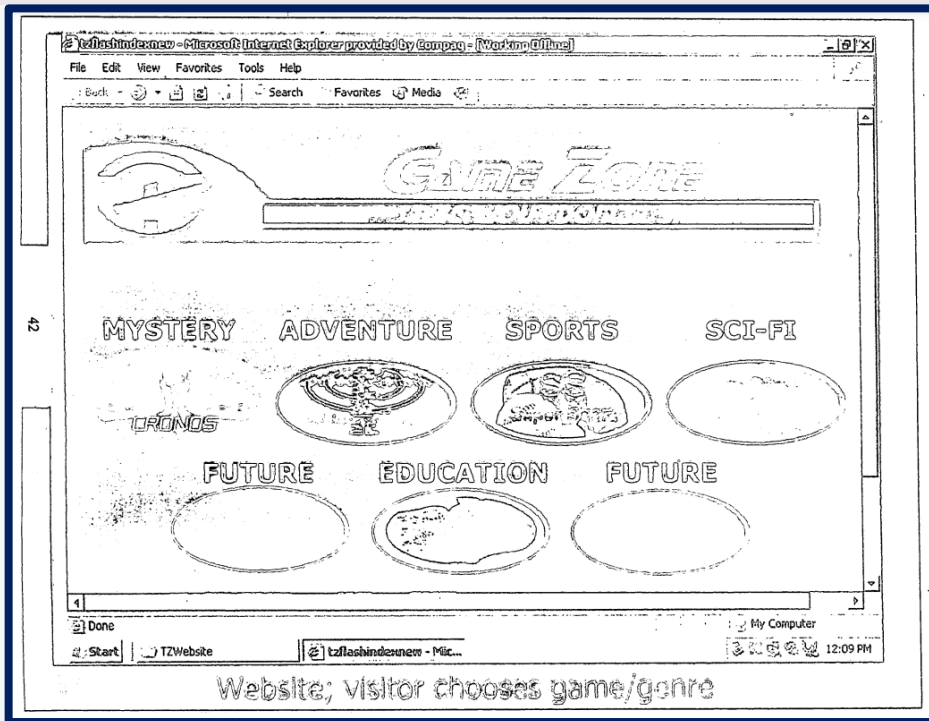
Q. Okay. So to be clear, page 125 does not display an Internet Explorer title bar; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: That is correct.

Ex.2016, 47:1-14

TerraZones: Petitioner's Inconsistent Positions

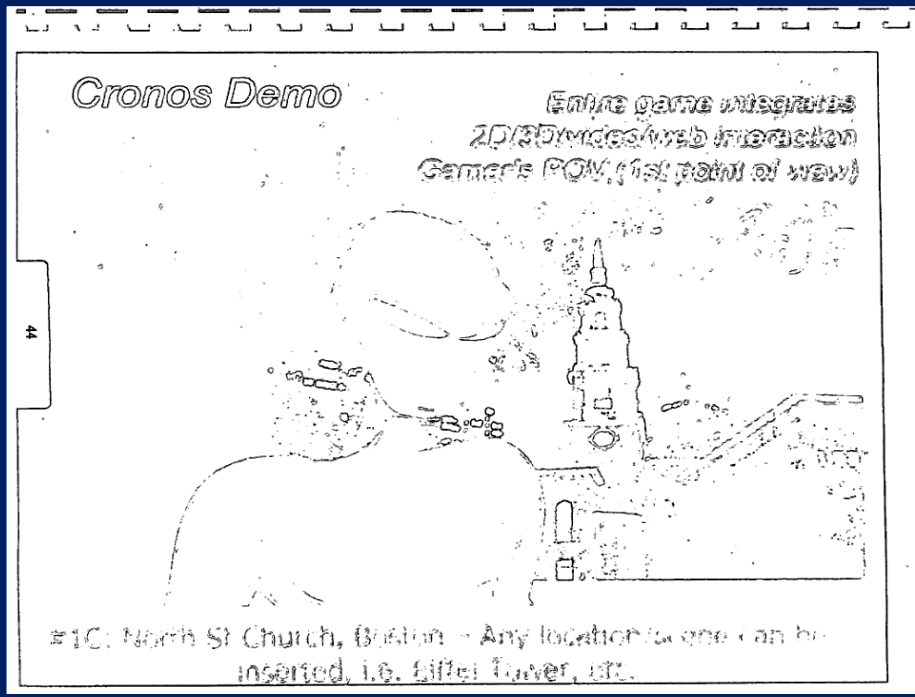


Ex.1003, 123

construction of *game application*. As the POSITA would understand, the applicant described the *web browser* of TerraZones as an “example of the invention” in which a primary electronic device “*accesses a game application, to thereby locally execute the game application.*” (Ex. 1003, 107-08, 123-24; Ex. 1025, ¶29.) That is, by the applicant’s own words, the TerraZones web browser is not only a *game application*, but is also *locally executed and accessible at the electronic device running the web browser*, as recited in element 1[a]. This web browser “example

Pet. 8

TerraZones: Petitioner's Inconsistent Positions

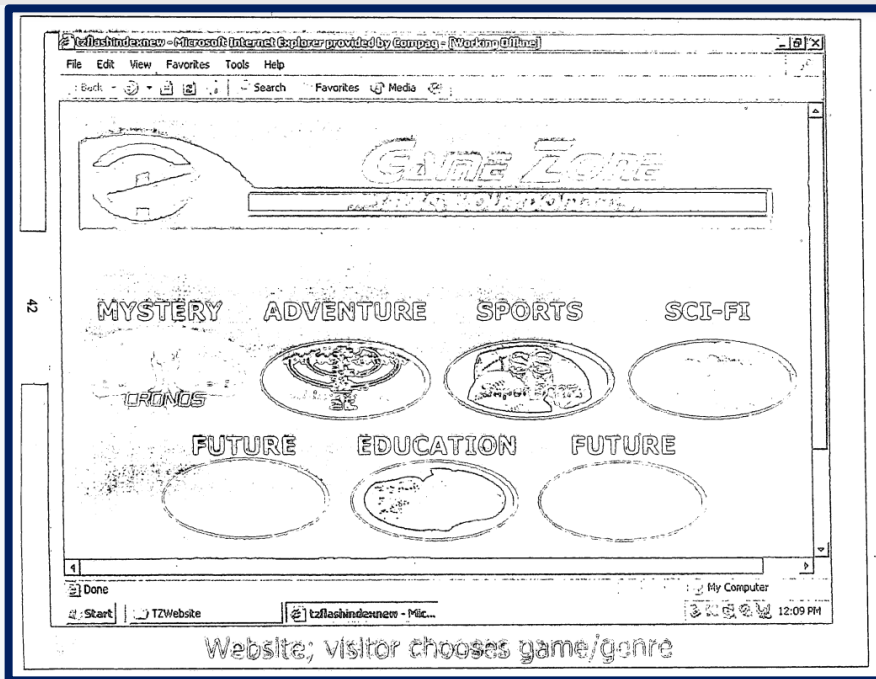


Ex.1003, 125

performance of a specific task.” (Ex. 1017, 31; Ex. 1025, ¶¶9-10.) The TerraZones web browser fits squarely within this definition, because it is a program designed to assist in the performance of a game, *e.g.*, the Cronos game chosen by the user. (Ex. 1025, ¶26.) It is further consistent even with Patent

Pet. 9

TerraZones: Petitioner's Inconsistent Positions



Ex.1003, 123

Q. So what is the game that the user selects in those slides?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: Well, in this slide the web browser is an example of a game application in which a player is going to be playing games and he has the ability to choose between games and other genres within that game application.

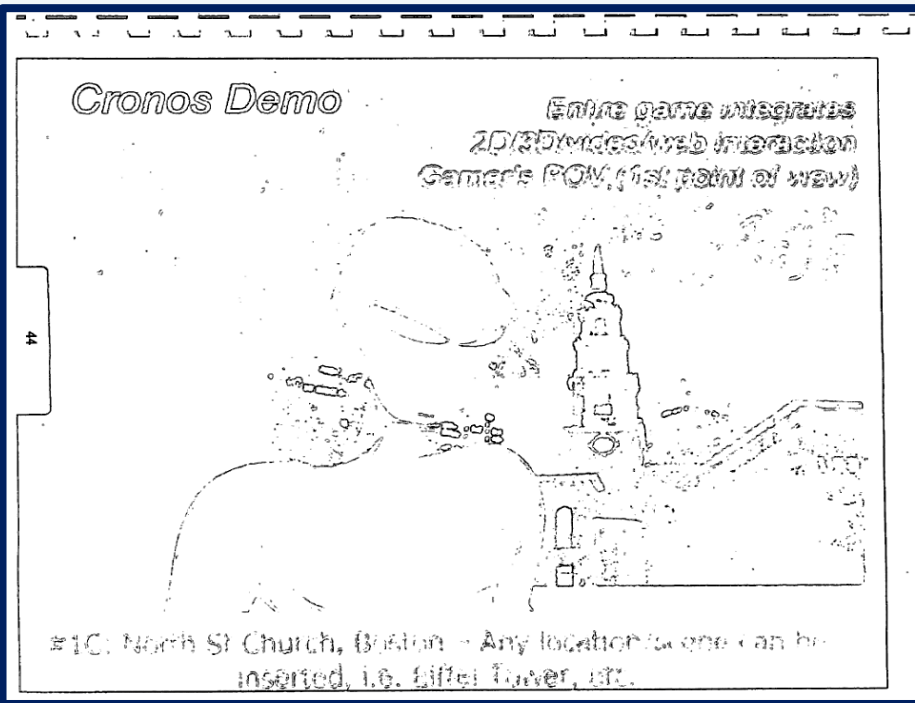
Q. So the game that is chosen is that browser; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: One of the game applications that he has chosen is this browser-based game application.

Ex.2016, 66:5-69:2

TerraZones: Petitioner's Inconsistent Positions



Ex.1003, 125

Ex.2016, 69:4-71:3

Q. Okay. So you said Cronos Demo is another example of the game application that the user chooses; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: I believe that's what this shows.

Q. Would you please go to page 125 which is the page that I flagged with the green stickers?

Would you say that the game was initiated at this point?

MR. BLUMENKOPF: Counsel, you're referring to the slide labeled 44 at the bottom?

MR. RAFATIJO: Correct.

MR. BLUMENKOPF: And, Mr. Crane, is that the page you're looking at?

THE WITNESS: It is.

I believe in this sequence that the Cronos Demo would have been initiated on or around the time this slide would have been captured.

Claim 1: “A Game Application”

1. A method of integrating business-related content over a computerized network, into a primary electronic device that accesses a game application, from at least one secondary electronic device that accesses business-related content on a plurality of web pages, the method comprising:

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

initiating said game application at said primary electronic device;

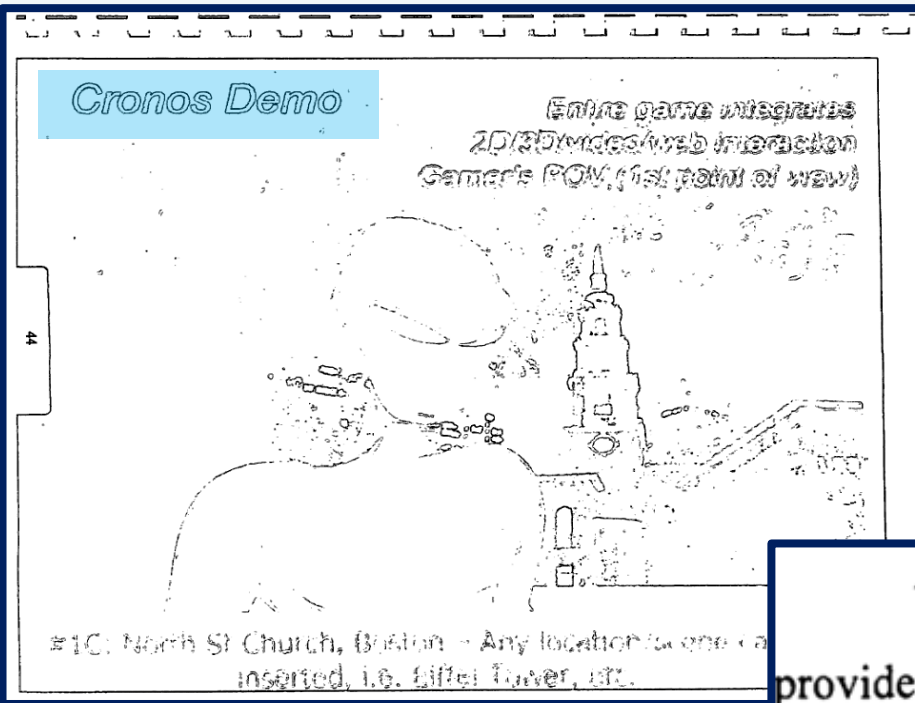
automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

executing a user action on said business-related content from said secondary electronic device.

Ex.1001, 7:13-35

TerraZones' Game Application: Cronos Demo



Ex.1003, 125

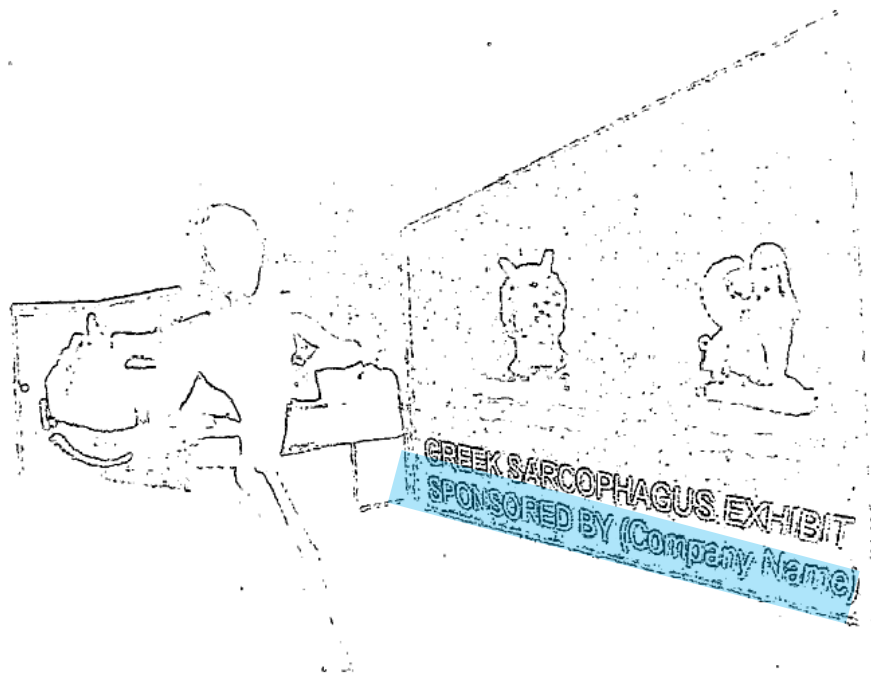
Limitations 1[A]-[B]

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;
initiating said game application at said primary electronic device;

A storyboard example of the invention entitled "TerraZones Storyboard" was provided to the Examiners during the personal interview of October 8, 2008, and a copy of the pertinent portion is provide herewith and listed in the Evidence Appendix of this Appeal Brief. In use, a primary electronic device accesses a game application, to thereby locally execute the game application. Further, business related content, from a least one

Ex.1003, 107-08

TerraZones' Game Application: Cronos Demo



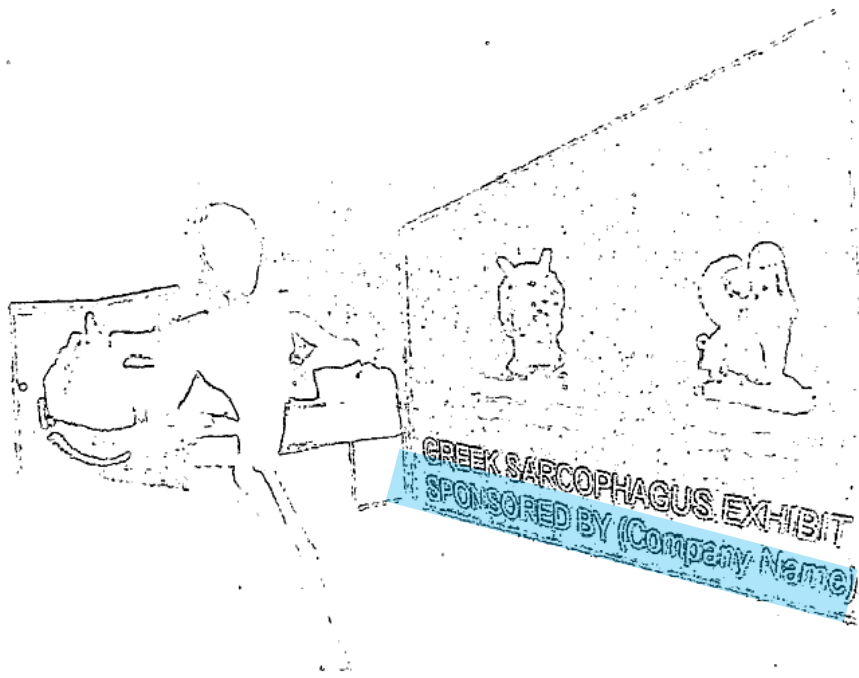
#30: Detail of exhibit/event/venue
(includes sponsorship option)

Ex.1003, 127

Limitation 1[C]

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

TerraZones' Game Application: Cronos Demo



= 3C: Detail of exhibit/event/venue
(includes sponsorship option)

Ex.1003, 127

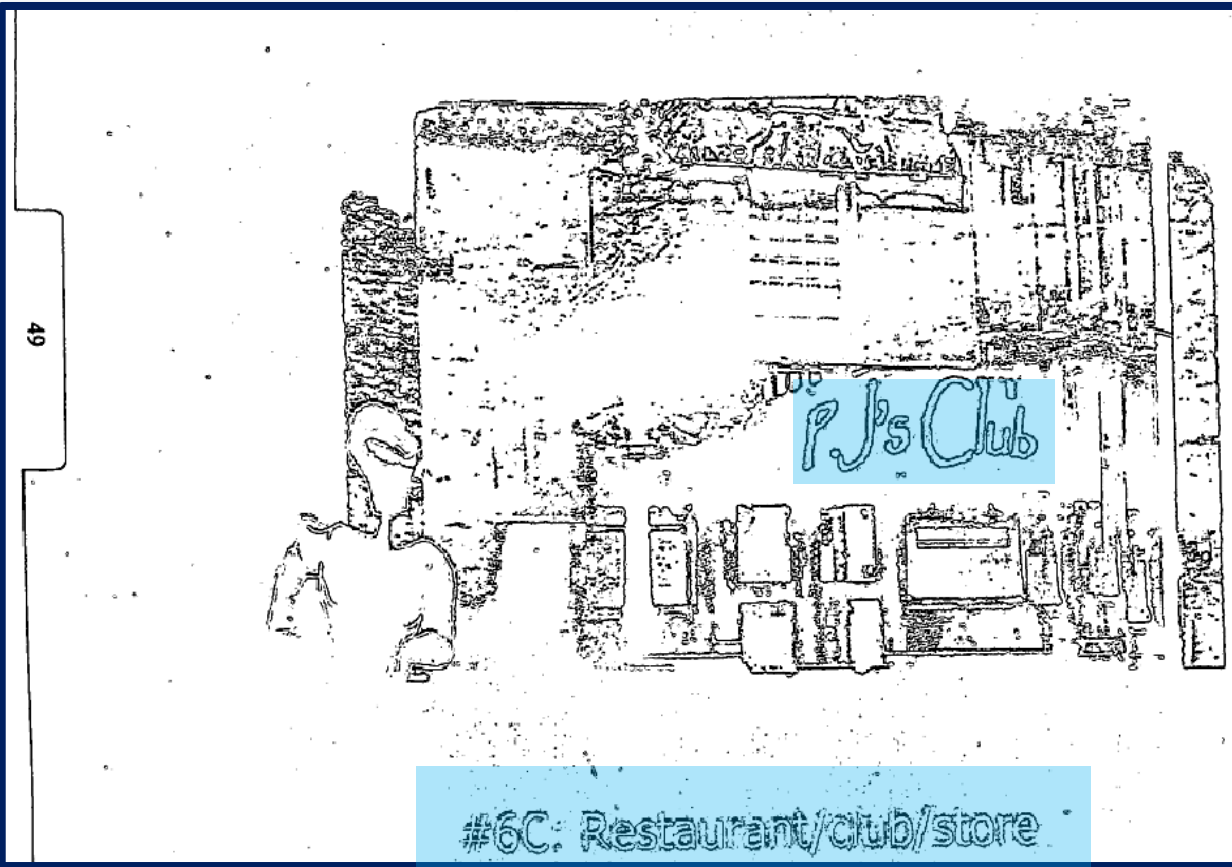
Limitation 1[C]

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

locally execute the game application. Further, business related content, from a least one secondary electronic device that accesses the business related content on a plurality of web pages, is automatically integrated into the locally executed game application during execution of the game application. The method/system of the present invention then

Ex.1003, 107-08

TerraZones' Game Application: Cronos Demo

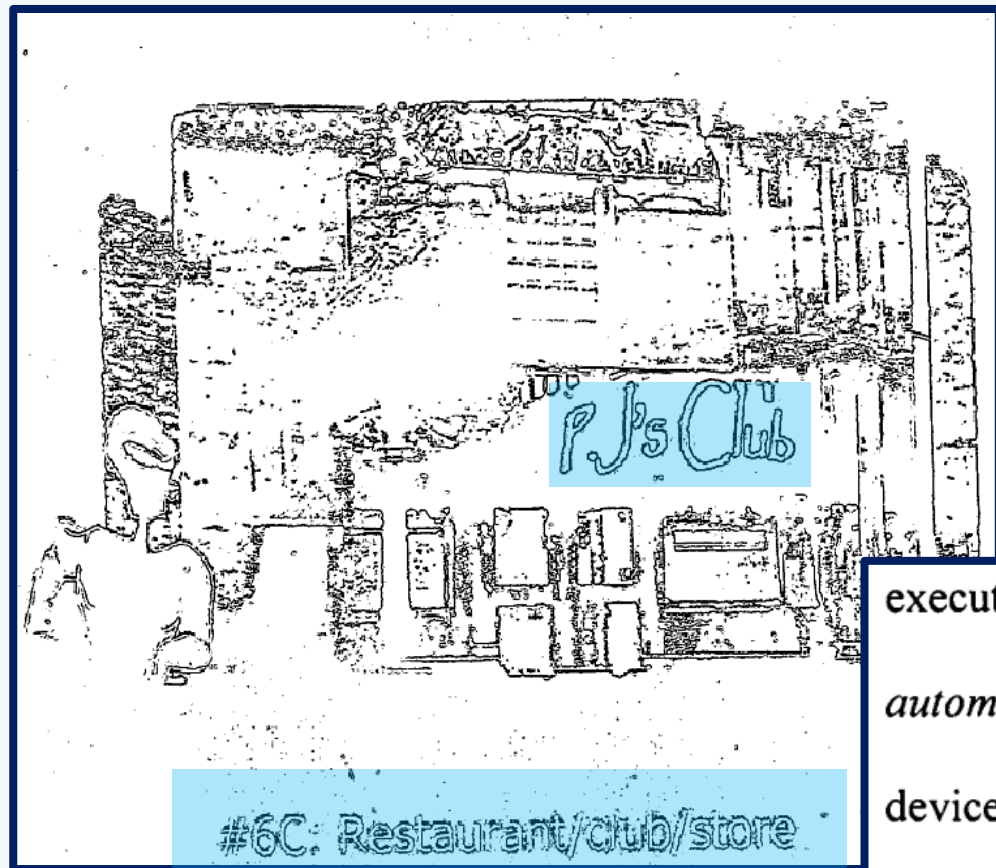


Ex.1003, 130

Limitation 1[D]

automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

TerraZones' Game Application: Cronos Demo



Ex.1003, 130

Limitation 1[D]

automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

execution of the game application. The method/system of the present invention then *automatically* redirects the user to one of the web pages of the secondary electronic device from the primary electronic device (see, for example, slides #6C and #7C where the user is automatically redirected into "PJ's Club" while playing the game and can actually see a live view of the club), the redirection being integrated into the application

Ex.1003, 107-08

Summary

- 1. “Locally executed” and “accessible at”**
- 2. Online games: not “accessible at” the user’s device**
- 3. Game application is an application that is a game**
- 4. Web browser is not a game application**
- 5. TerraZones slides: Cronos Demo is the game not browser**

“Automatically Re-Directing”

Petition	Decision	POR	Reply
“without human initiation or intervention”	“without human initiation or intervention”	“a hyperlink click [i]s a manual redirection”	“The user is automatically redirected to an advertiser’s website upon selecting a hyperlink”
Pet. 24	Decision 20-21	POR 32	Reply 16

Petitioner's Expert Disagrees with Petitioner

Q. Okay. Do you have an understanding of what the term "automatic" as used in claim element i[d] means?

A. I understand the term automatically meaning the opposite of manually.

Ex.2009, 231:10-13

Q. Okay. Similar application, I think. So if you're looking at your Face -- if you're looking at Facebook, and, you know, as you're scrolling you happen to see an article or an advertisement and you look -- you think it looks interesting, so you stop your scroll for a moment but then move on, is that stopping and looking, would you consider that to be auto redirection?

A. What you're looking at is resident, in my case on my iPad. If I want more information, I can certainly manually click on that advertisement and go somewhere else.

Ex.2009, 232:7-21

Specification Supports PO's Position

the context of the game. User actions within the game cause the game application to automatically re-direct the user to a customized corporate web site containing selected information from a business sponsor. Game-related user actions per-

Ex.1001, 3:7-10; Abstract

of the game application 64, the occurrence of a pre-determined event in the game causes a transparent re-direction to one of the customized web pages 74, 80 and 86. The web pages expose the user 60 to additional business-related content in the context of the ongoing game. Game actions under-

Ex.1001, 4:14-24

Decision Agrees with PO's Position

the context of the game. User actions within the game cause the game application to automatically re-direct the user to a customized corporate web site containing selected information from a business sponsor. Game-related user actions per-

Ex.1001, 3:7-10; Abstract

of the game application 64, the occurrence of a pre-determined event in the game causes a transparent re-direction to one of the customized web pages 74, 80 and 86. The web pages expose the user 60 to additional business-related content in the context of the ongoing game. Game actions under-

Ex.1001, 4:14-24

Decision



Figure 3 presents “a flowchart of the sequence of steps followed by the illustrative embodiment of the present invention to expose the player to business-related content while the player is playing the game.” Ex. 1001, 2:57–60. During game play, at step 102, a player is exposed to company branding. *Id.* at 4:60–62. At step 104, a game event causes the player to be redirected to an external company web site. *Id.* at 4:62–63. At step 106, the

Prosecution History Supports PO's Position



As for the feature of “automatically redirecting said user (customer) to one of the Web page” is inherently included in the teachings above for the customer to play the game “*must visit*” the “Web pages of the Web store” which requires “automatically re-directing” and the user “*gather new product information*” or “*becomes aware*” or “in contact” with the “goods and/or services” which read over “content”. In other word, without “automatically integrating” feature, the customer would not (does not have to) visit the Web pages with information about the goods and/or services as indicated above, which is what CZEPLUCH tries to avoid since it makes no profit by letting the customer play games alone but by automatically forcing the game player to visit product web pages. sit the Web pages as indicated above, which is what CZEPLUCH tries to avoid. These features also taught in pars. [0038] as cited above, and [0042-0043],

Ex.1003, 147-48

Prosecution History Supports Patent Owner



As for the feature of “automatically redirecting said user (customer) to one of the Web page” is inherently included in the teachings above for the customer to play the game “*must visit*” the “Web pages of the Web store” which requires “automatically re-

Here, we agree with the Examiner that Czepluch discloses the automatic re-directing feature with respect to Figure 4². In this embodiment we find that the act of clicking on the puzzle item activates the associated link (as part of a game related action- puzzle assembly) redirecting the user from the catalog page to the game page. (FF 2). We find no error in the Examiner’s

Ex.1003, 33-34

web pages. sit the Web pages as indicated above, which is what CZEPLUCH tries to avoid. These features also taught in pars. [0038] as cited above, and [0042-0043],

Ex.1003, 147-48

POSITA Agrees



Nenad Medvidović

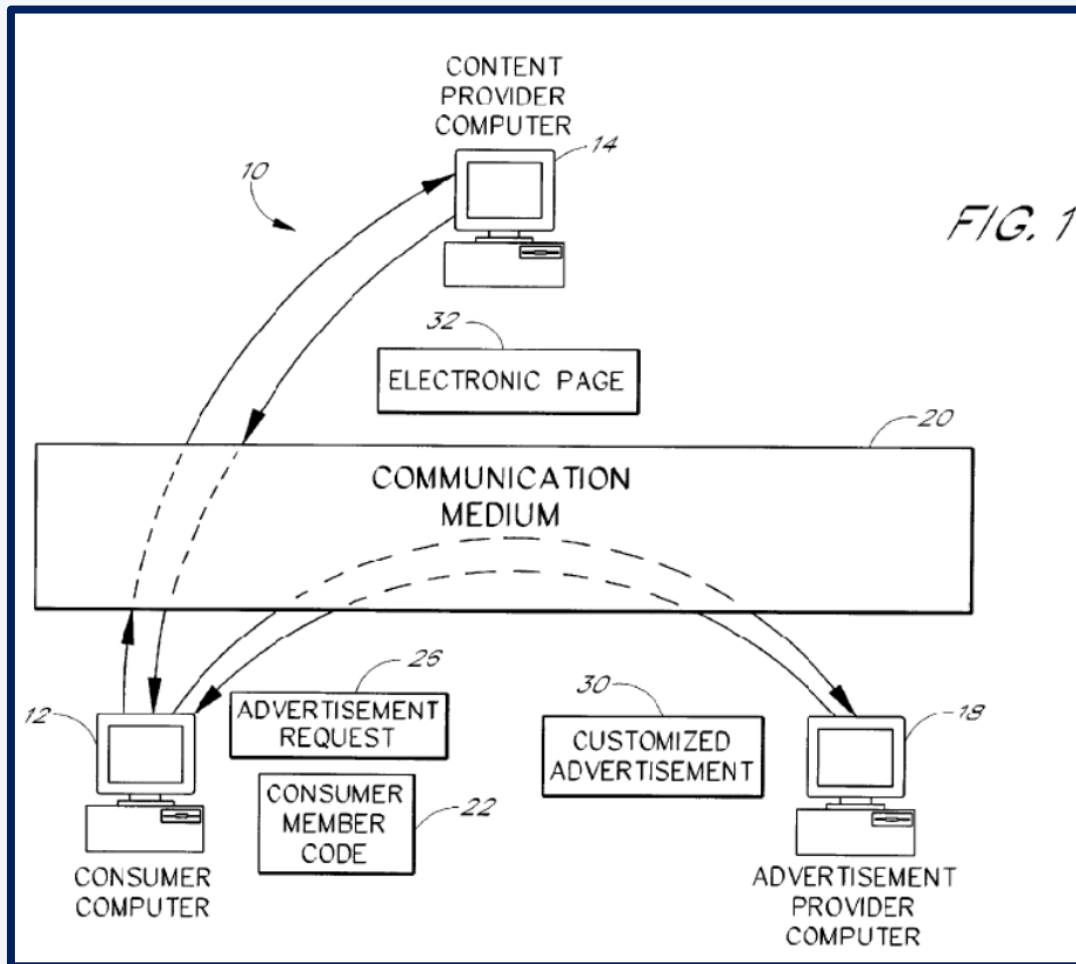
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Ex.2005, ¶52

52. A process occurs automatically if “under specified conditions” it occurs without manual intervention by a human operator. Ex. 2008 at 58 (definition of “automatic”). Consider a scenario where a game application comprises multiple levels, and a player unlocks the next level automatically upon completing the current one. In this case, the specific condition triggering the automatic unlocking is the player’s completion of the current game level. Now, contrast this with a different scenario: a user reading an article that contains a hyperlink at the end. Clicking on this hyperlink would redirect the user to another webpage. However, upon finishing reading the article, the user is not automatically redirected to the linked webpage. Instead, the user must manually click on the hyperlink for the redirection to take place. Thus, this process does not occur automatically.

Angles

Fig. 1: Preferred Embodiment

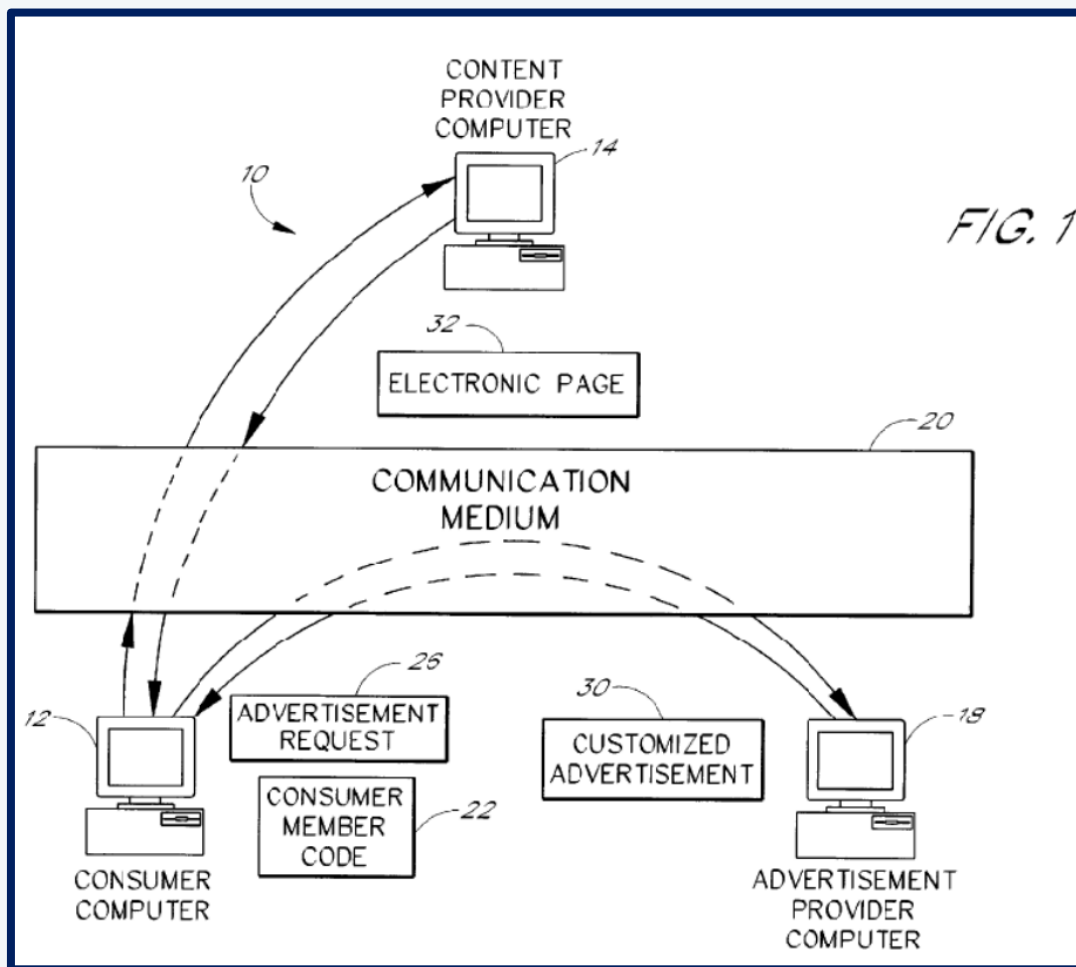


In operation, a consumer directs the consumer computer 12 to communicate with the content provider computer 14 via the communication medium 20. Once the consumer computer 12 establishes a communication link with the content provider computer 14, the content provider computer 14 transfers an electronic page 32 to the consumer computer 12. The preferred electronic page 32 contains an embedded advertisement request 26.

When the consumer computer 12 receives the electronic page 32, it executes the embedded advertisement request 26. The embedded advertisement request 26 directs the consumer computer 12 to establish a communications link with the advertisement provider computer 18. Furthermore the embedded advertisement request 26 directs the advertisement provider computer 18 to execute a content provider script (not shown). The content provider script exists on the advertisement provider computer 18 and contains a content provider member code (not shown). The advertisement provider computer 18 uses the content provider member code to track the number of advertisements viewed by the consumer computers 12 connected to a particular content provider computer 14.

Angles, 7:53-65

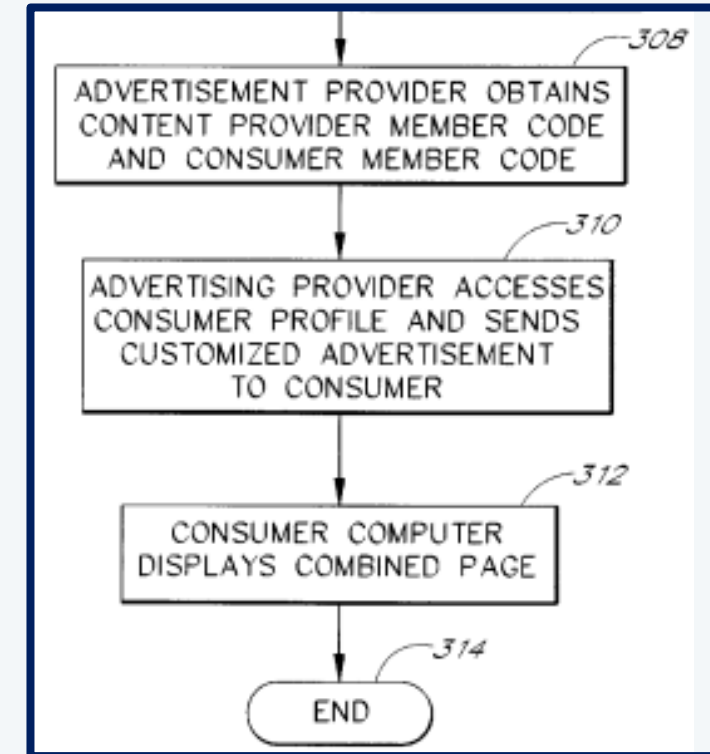
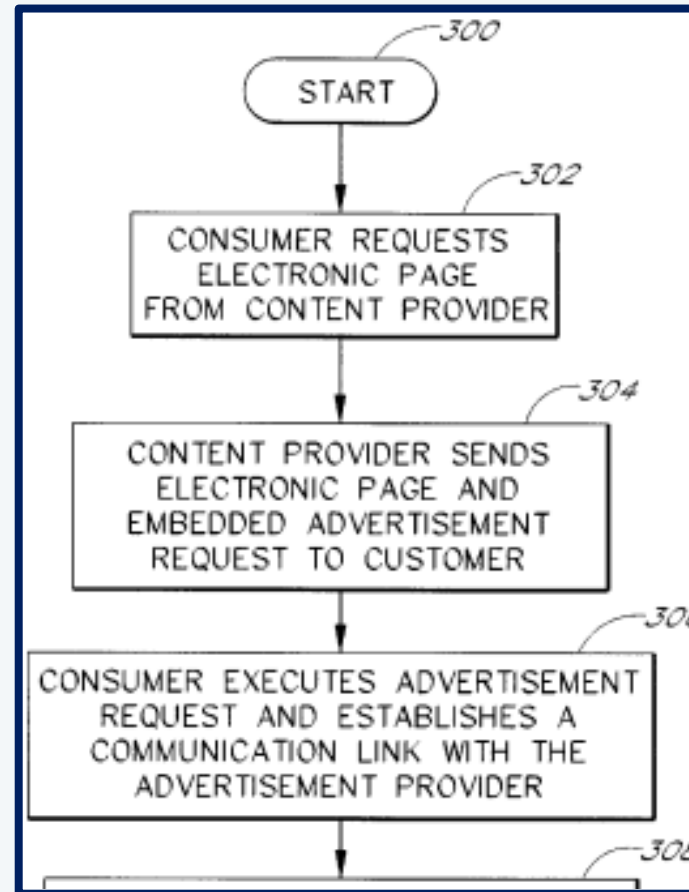
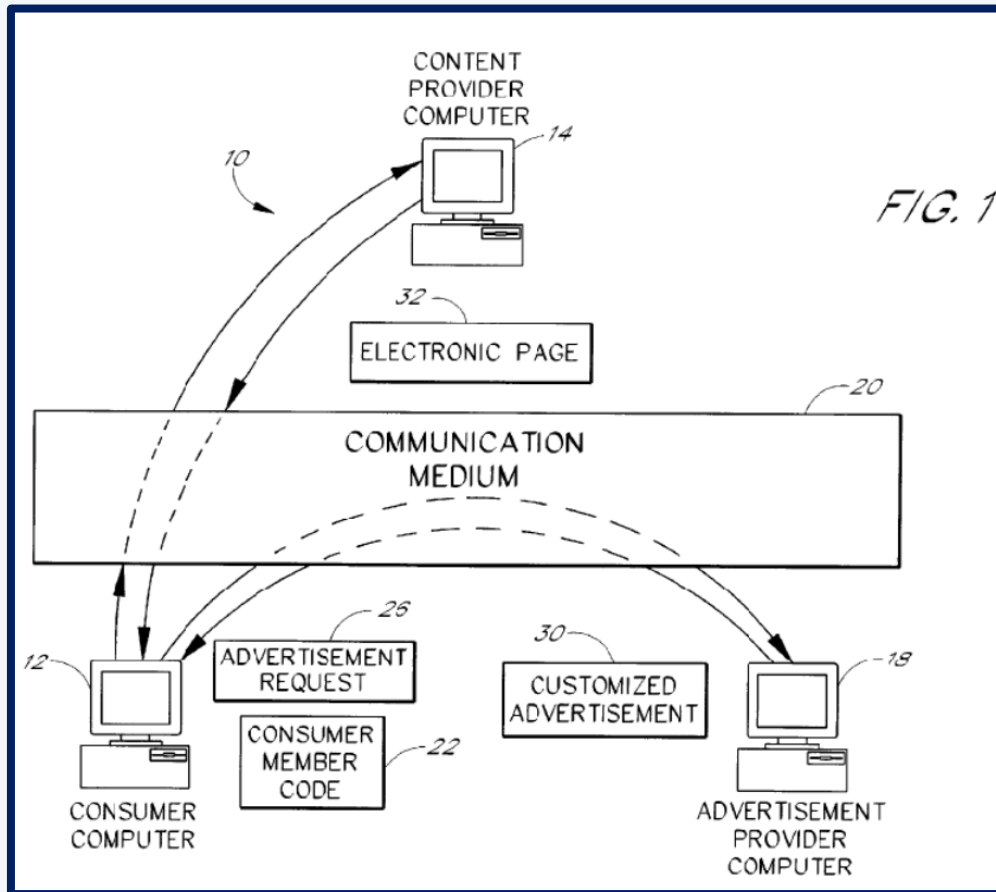
Fig. 1: Preferred Embodiment



In addition, the consumer computer 12 contains a consumer member code 22 which uniquely identifies the consumer. The advertisement provider computer 18 obtains the consumer member code 22 and uses the consumer's member code 22 to access the consumer's profile in a demographic database (not shown). Based on the consumer's profile, the advertisement provider computer 18 selects an appropriate customized advertisement 30. The advertisement provider computer 18 then sends the customized advertisement 30 to the consumer computer 12. As discussed in more detail below, the consumer computer 12 merges the electronic page 32 and customized advertisement 30.

Angles, 8:8-19

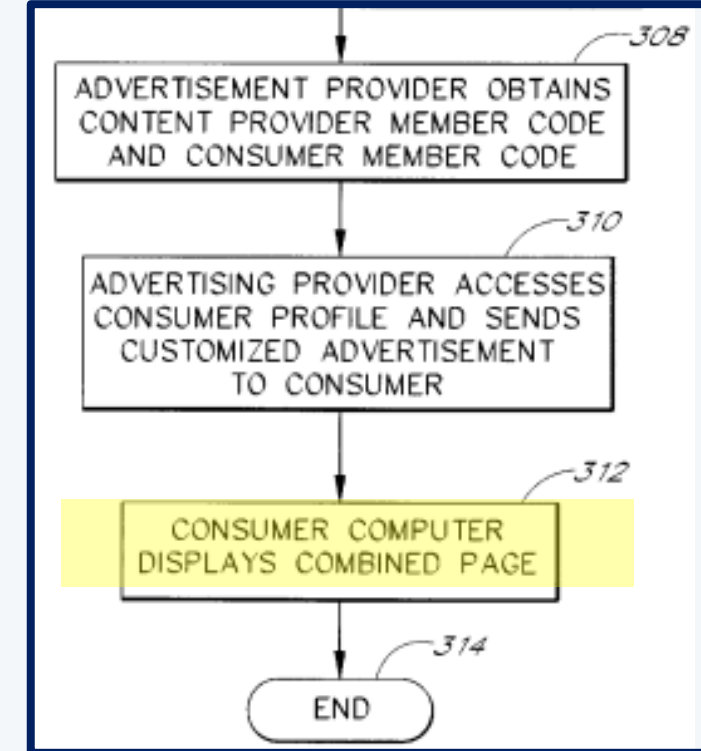
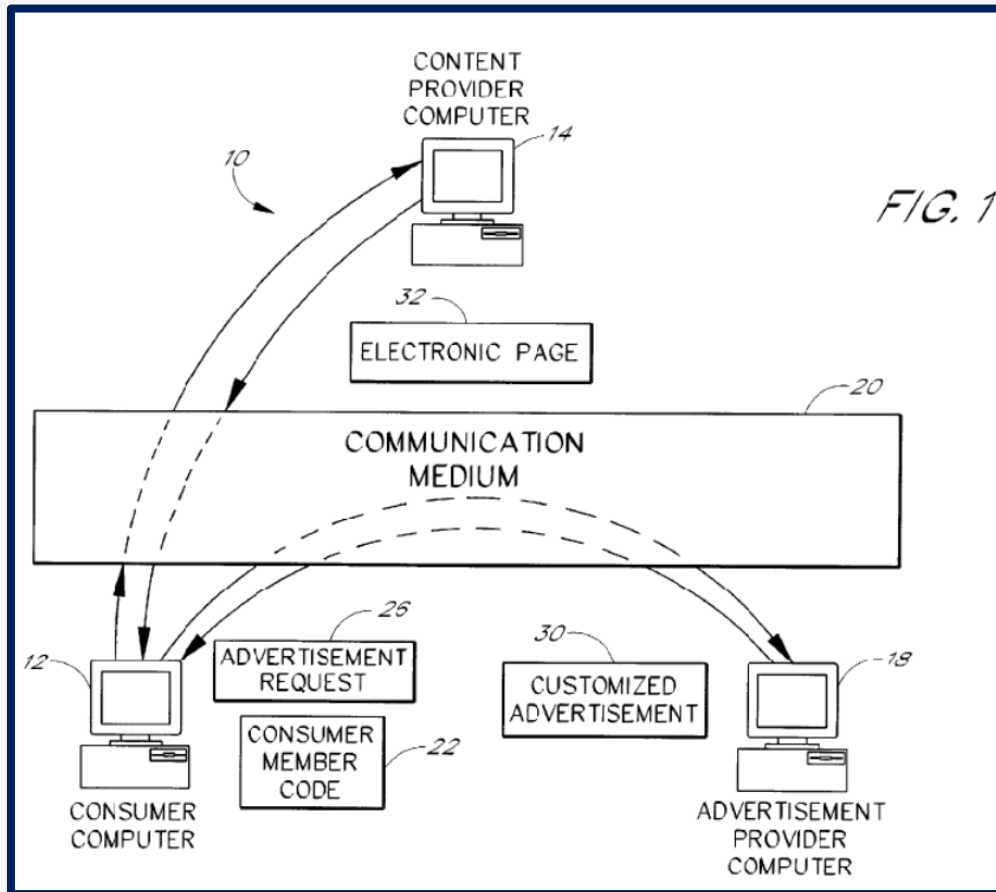
Fig. 1: Preferred Embodiment



Angles, Fig. 3

FIG. 3 is a high level flow diagram of the preferred process for sending electronic information and custom advertisements to a consumer computer.

Fig. 1: Preferred Embodiment



Angles, 8:62-67

Proceeding to state **312**, the process combines the electronic page **32** from the content provider computer **14** and the customized advertisement **30** from the advertisement provider computer **18** into a displayable page. Once the combined page has been displayed to the consumer, the process ends at end state **314**.

Fig. 1: Preferred Embodiment

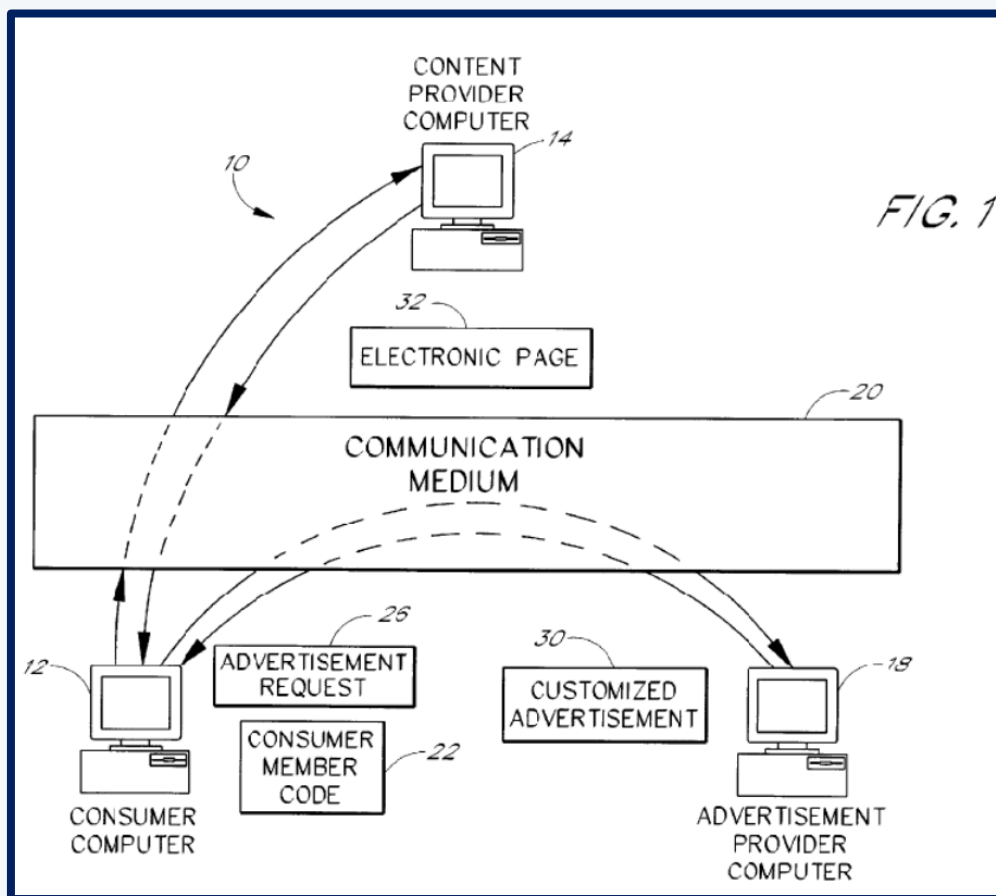
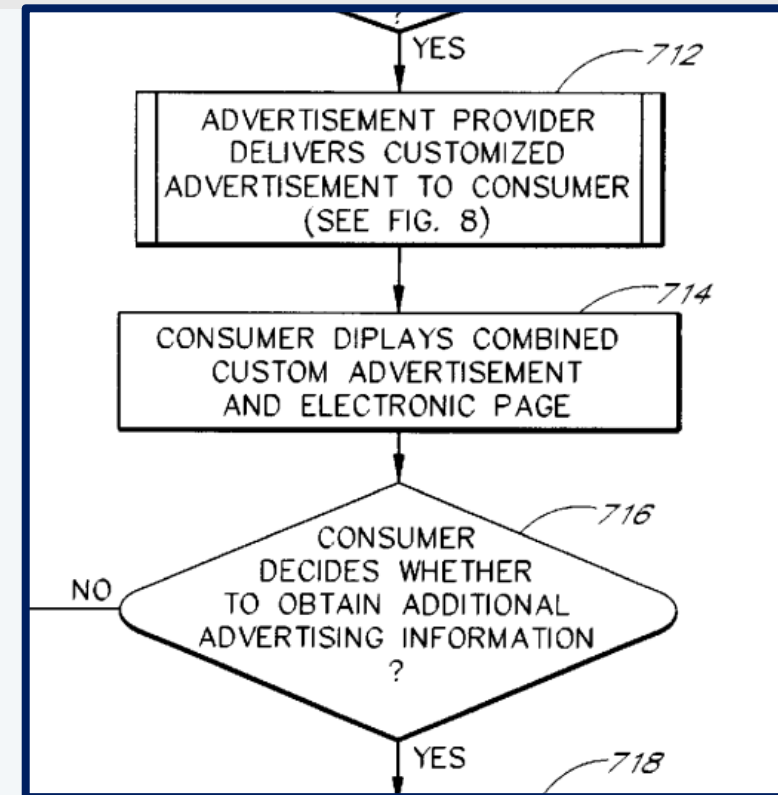
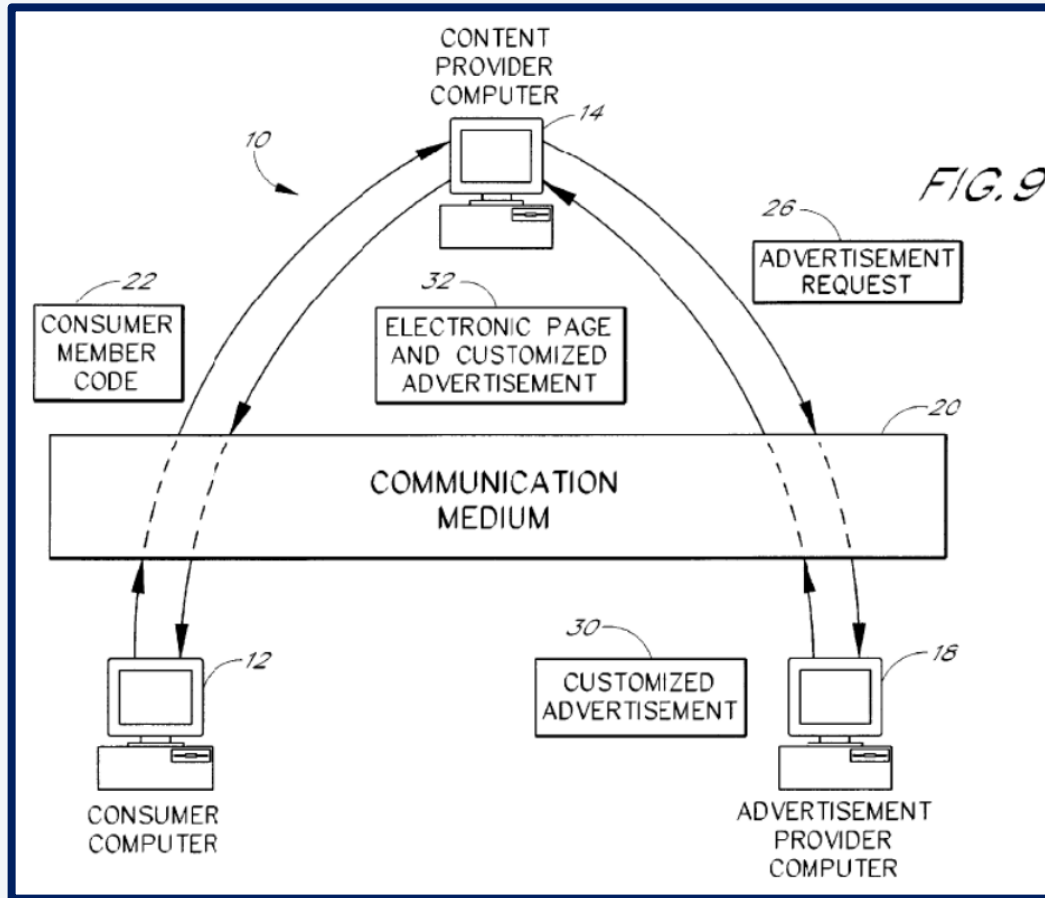


FIG. 7 is a flow diagram of the preferred process whereby a consumer accesses a content provider and is thereafter sent an electronic document and customer advertisement.



After the advertisement provider delivers the customized advertisement to the consumer of state 712, the consumer receives the customized advertisement in state 714. During state 714, the consumer combines the customized advertisement with the electronic page that was requested by the consumer.

Fig. 9: Alternative Embodiment

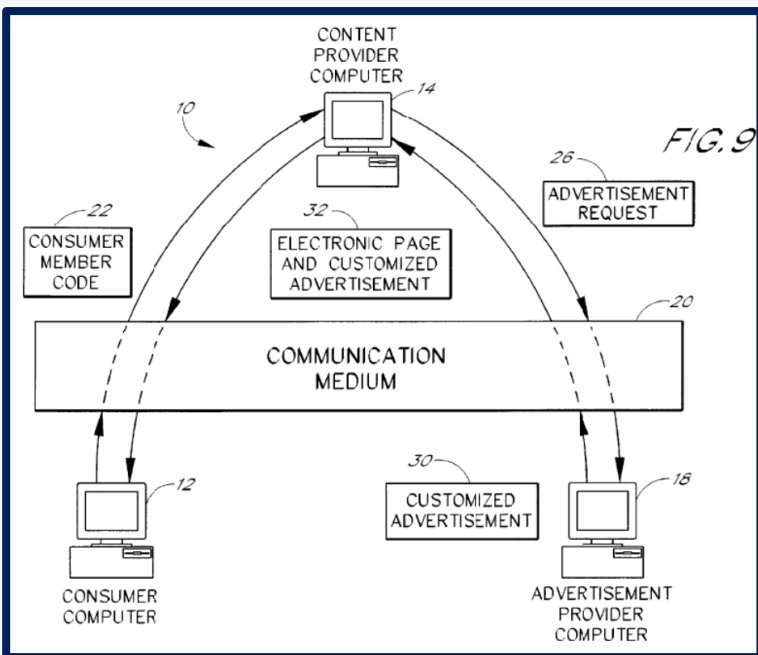


Angles, 21:34-52

FIG. 9 shows an alternative embodiment of the present invention wherein the advertisement provider computer 18 sends the customized advertisement 30 to the content provider computer 14.

Upon receiving the customized advertisement, the content provider incorporates the customized advertisement 30 into an electronic page 32. The content provider computer 14 then forwards the electronic page 32, combined with the customized advertisement 30 to the consumer computer 12. The consumer computer 12 then displays the electronic page 32 and customized advertisement 30 to the consumer. Because transferring the customized advertisement 30 from the advertisement provider computer 18 to the content provider computer 14 happens prior to sending the electronic page 32 to the consumer, the electronic page 32 appears to the consumer like all other electronic pages 32 on the Internet 33, except that it contains the customized advertisement 30 which has been pre-selected for that consumer.

Fig. 9: POSITA's Understanding



121. Therefore, unlike Angles's preferred embodiment of FIG. 1, where establishing a communication link between the consumer computer and the content provider computer is the first step, in FIG. 9 embodiment establishing a communication link between the content provider computer and the advertisement provider computer is the first step.

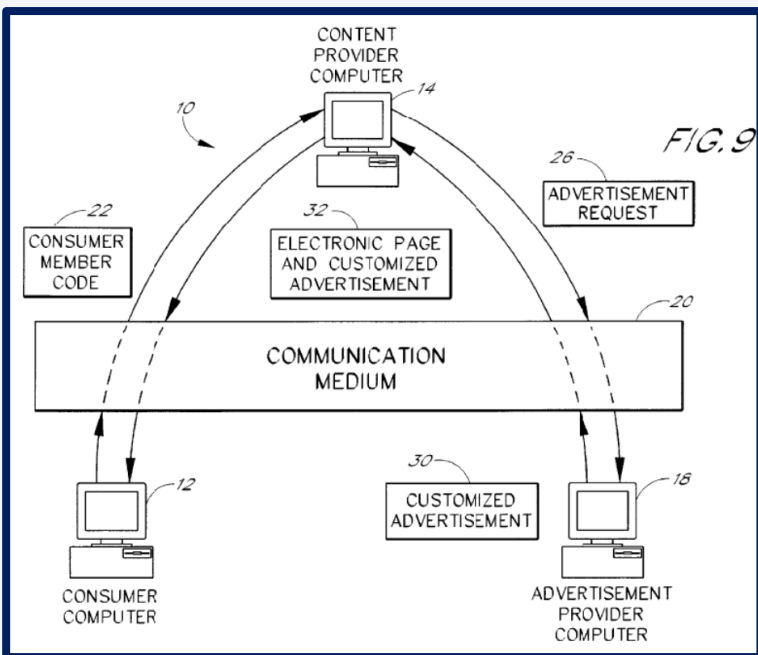
Ex.2005, ¶121



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Fig. 9: POSITA's Understanding



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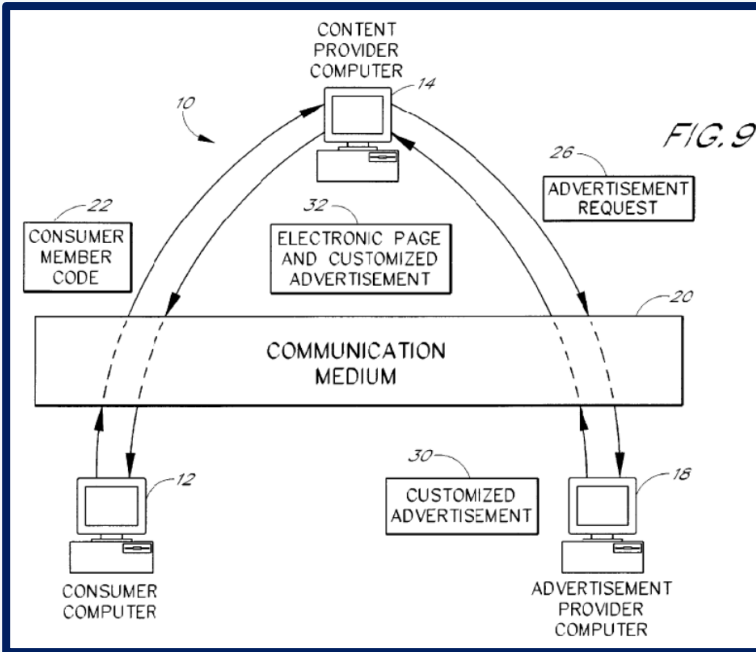
Ex.2005, ¶120

121. Therefore, unlike Angles's preferred embodiment of FIG. 1, where establishing a communication link between the consumer computer and the content provider computer is the first step, in FIG. 9 embodiment establishing a communication link between the content provider computer and the advertisement provider computer is the first step.

Ex.2005, ¶121

identity of the consumer viewing it. Certainly, if the process illustrated by FIG. 9 was to begin with the consumer computer establishing a communication link with the content provider computer followed by the content provider computer establishing a communication link with the advertisement provider computer, the advertisement provider computer would know enough information about the identity of the consumer to select—instead of “pre-select”—an appropriate advertisement.

Fig. 9: POSITA's Understanding



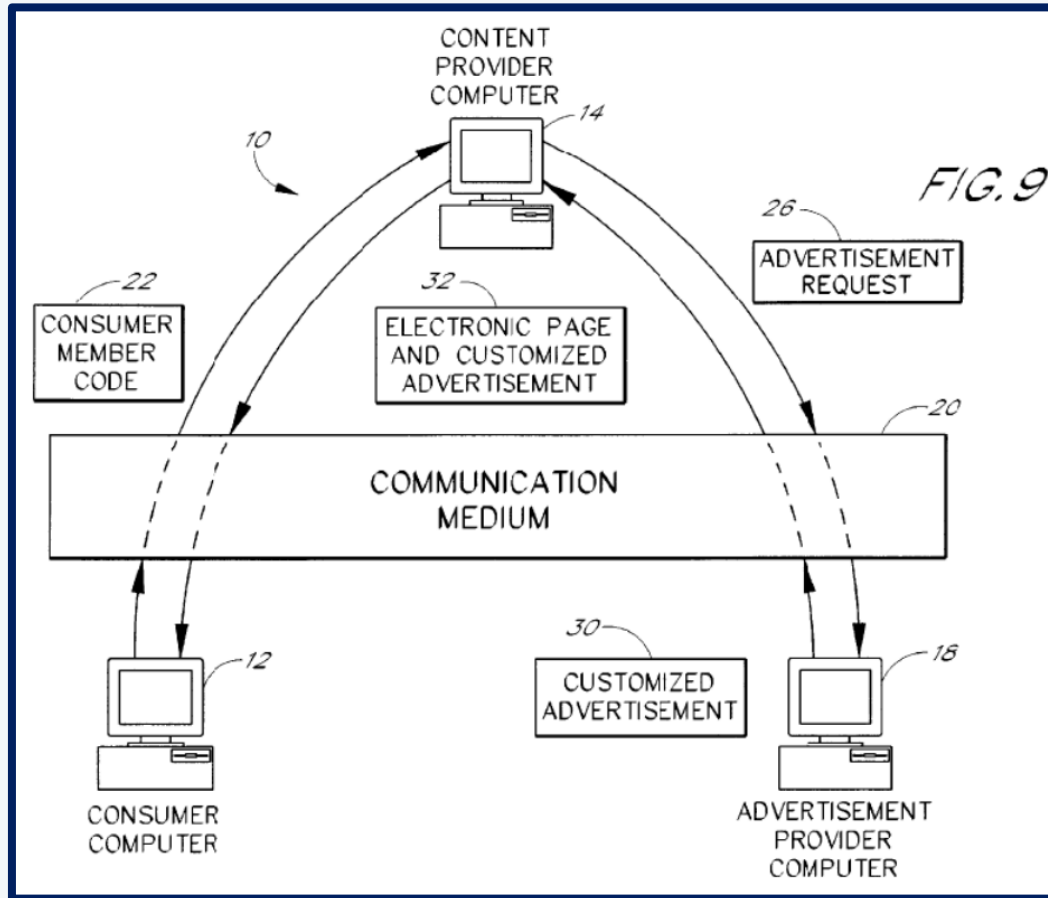
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Ex.2005, ¶119

content provider computer is infeasible. In such a scenario, after a communication link between the consumer computer and the content provider computer is established, then the consumer must wait for the content provider computer to complete the following three steps: (1) establishing a communication link with the advertisement provider computer, (2) receiving a customized advertisement from the advertisement provider computer, and (3) incorporating the same into the electronic page offered by the content provider computer. Since Angles specifically requires that the content provider computer combines the electronic page with the customized advertisement “prior to” “forward[ing]” it to the consumer computer, (See Ex. 1007, 21:38-52), the consumer must wait until all the above-listed steps are completed. As of Angles’s priority date, a POSITA would understand that the substantial latency associated with this scenario would render it impractical and infeasible.

Fig. 9: Alternative Embodiment

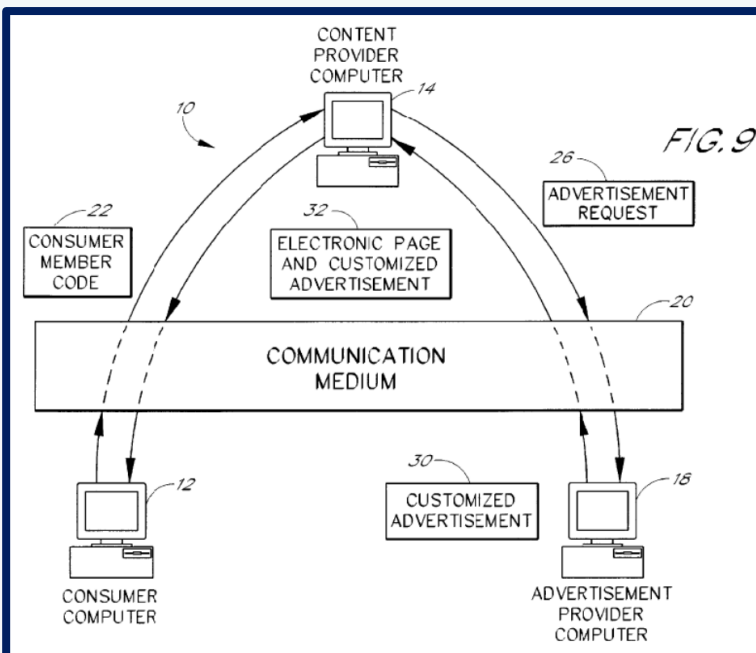


The embodiment shown in FIG. 9 allows the customized advertisements 30 to be incorporated directly into the content provider's offerings. Thus, in addition to integrating the customized advertisements 30 in to an electronic page 32, the content provider computer 14 can integrate the customized advertisements 30 into offerings such as on-line games, video programming, internet radio, virtual reality environments and the like.

For example, assuming the content provider computer 14 offers consumers on-line games such as interactive car races. In this example, the content provider computer 14 can integrate the customized advertisements 30 into signs and billboards which appear in the interactive game. In other embodiments, the content provider computer 14 can integrate the customized advertisements 30 into three dimen-

Angles, 21:53-65

Fig. 9: POSITA's Understanding



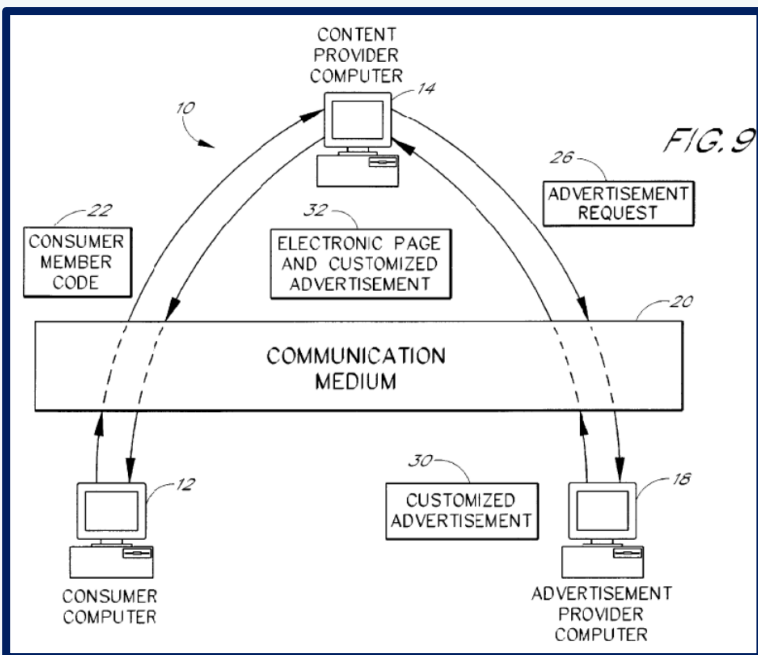
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131. This excerpt begins by identifying one of the most important differences between the FIG. 9 embodiment and the preferred embodiment of FIG. 1—effectively contrasting the two embodiments: “The embodiment shown in FIG. 9 allows the customized advertisements 30 to be incorporated directly into the content provider’s offerings.” Ex. 1007, 21:53-55. As explained in great detail above, this is one of the fundamental differences between the two embodiments. In other words, FIG. 1 embodiment does not “allow[] the customized advertisements 30 to be incorporated directly into the content provider’s offerings.” *Id.* And Angles makes this difference abundantly clear here.

Ex.2005, ¶131

Fig. 9: POSITA's Understanding



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132. Angles goes on to say that this difference makes FIG. 9 embodiment to have an advantage “in addition to” what FIG. 1 embodiment offers. Remember, as discussed in Paragraph 103 Angles’s FIG. 1 embodiment allows the consumer computer 12 to merge the customized advertisement 30 with the electronic page 32. Thus, here Angles makes it clear that Angles’s FIG. 9 offers an advantage that Angles’s FIG. 1 could not: “[T]he content provider computer 14 can integrate the customized advertisements 30 into offerings such as on-line games, video programming, internet radio, virtual reality environments and the like.” Ex. 1007, 21:57:60. And the car race example that follows makes Angles’s point even clearer.

Ex.2005, ¶132

POSITA's Understanding of Angles' Embodiments

126. The following Table summarizes key fundamental and structural differences between Angles's FIGs. 1 and 9.

FIG. 1	FIG. 9
The first communication link is established <i>between consumer computer and content provider computer</i>	The first communication link is established <i>between content provider computer and advertisement provider computer</i>
Direct communication link between consumer computer and advertisement provider computer <i>must exist</i>	Direct communication link between consumer computer and advertisement provider computer <i>cannot exist</i>
Direct communication link between content provider computer and advertisement provider computer <i>cannot exist</i>	Direct communication link between content provider computer and advertisement provider computer <i>must exist</i>

Ex.2005, ¶132



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POSITA's Understanding of Angles' Embodiments



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Ex.2005, ¶132

FIG. 1	FIG. 9
Content provider's electronic page <i>must contain an embedded advertisement request</i> directing consumer computer to advertisement provider computer	Content provider's electronic page <i>cannot contain an embedded advertisement request</i> directing consumer computer to advertisement provider computer
Content provider computer <i>cannot directly incorporate advertisement into its electronic page</i> prior to sending it to consumer	Content provider computer <i>must directly incorporate advertisement into its electronic page</i> prior to sending it to consumer
Consumer computer <i>must register with advertisement provider computer</i>	<i>Registration with advertisement provider computer is not required</i>
Advertisement provider <i>must maintain a consumer profile</i> containing demographic information	Advertisement provider <i>does not maintain a consumer profile</i> containing demographic information
<i>Identity of consumer is known to advertisement provider computer</i> prior to selecting advertisement	<i>Identity of consumer is not known to advertisement provider computer</i> prior to selecting advertisement

POR 6-12 (citing
Ex.2005, ¶132)

POSITA's Understanding of Angles' Embodiments



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Ex.2005, ¶132

<i>Advertisement must be selected based on the consumer profile</i>	<i>Advertisement must be pre-selected</i>
Advertisement provider computer <i>can track consumer's response and send a new advertisement</i>	Advertisement provider computer <i>cannot track consumer's response or send a new advertisement</i>
Consumer <i>can execute user's action on a custom advertisement because the custom</i>	Consumer <i>cannot execute user's action on a custom advertisement because the custom advertisement is already incorporated into</i>
<i>advertisement can have a hyperlink</i> on which the consumer may mouse-click	<i>the content provider's offerings</i> , obviating the need for an embedded hyperlink

POSITA's Understanding of Angles' Embodiments

129. Based on the analysis presented in Paragraphs 100-128, it is my conclusion that a POSITA reading Angles would perceive the embodiments depicted in Angles's FIGs. 1 and 9 as vastly different. Adopting one effectively teaches away from the adoption of the other. Therefore, the idea that a POSITA would be motivated to combine these two distinctly different, non-combinable embodiments stems from impermissible hindsight reasoning.



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Ex.2005, ¶129

Petitioner's “Shifting Argument” for Limitation 1[C]

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

Petition points to Angles's Fig. 9

Petitioner's “Shifting Argument” for Limitation 1[C]

Petition points to Angles’s Fig. 9

As Mr. Crane explains in his declaration, the integration of the customized advertisements with the offerings happens automatically without human initiation or intervention.³ Ex-1004, ¶117.

Pet. 24

Petitioner's "Shifting Argument" for Limitation 1[C]

Petition points to Angles's Fig. 9

117. Angles teaches serving/integrating said advertising (**business-related content**) into an online-game offering (**locally executed game application**) **during execution of said game application** by, for example, integrating customized advertisements into signs and billboards which appear in an interactive car racing game during its execution (*See* ¶85). Note that such integration of customized advertisements into the signs and billboards happens automatically without human initiation or intervention, since "the content provider computer 14 can integrate the customized advertisements 30 into signs and billboards which appear in the interactive game." (Ex. 1007, 21:63-65)

Pet. 24 (citing Ex.1004, ¶117)

Petitioner's “Shifting Argument” for Limitation 1[C]

Petition points to Angles’s Fig. 9

FIG. 9 reproduced above depicts an embodiment that “allows the customized advertisements 30 to be incorporated directly into the content provider's offerings. Thus, ... the content provider computer 14 can integrate the customized advertisements 30 into offerings such as on-line games, video programming, internet radio, virtual reality environments and the like.” Ex-1007, 21:53-60. Note

Pet. 24-25

Petitioner's “Shifting Argument” for Limitation 1[C]

Petition points to Angles's Fig. 9

that the business content can be integrated “during execution of said game application.” *See id.*, 21:61-22:2 (“For example, assuming the content provider computer 14 offers consumers **on-line games, such as interactive car races.** In this example, the content provider computer 14 can **integrate the customized advertisements 30 into signs and billboards which appear in the interactive game.** In other embodiments, the content provider computer 14 can **integrate the customized advertisements 30 into three-dimensional worlds** defined by the Virtual Reality Modeling Language (VRML 1.0).”).

Pet. 25

Petitioner's “Shifting Argument” for Limitation 1[C]

**Petition points to Angles’s Fig. 9
EVEN the single cite to Angles’s Abstract**

Angles teaches this limitation. As discussed above, Angles discloses an “advertisement provider computer 18” having a plurality of web pages, wherein the advertisement provider computer 18 generates business-related content such as “customized advertisements 30.” “The customized advertisements are selected based on consumer profiles and are then integrated with offerings maintained by different content providers.” Ex-1007, Abstract.

Pet. 24

Petitioner's “Shifting Argument” for Limitation 1[C]

**Petition points to Angles's Fig. 9
EVEN the single cite to Angles's Abstract**

The present invention is a system and method for delivering customized electronic advertisements in an interactive communication system. The customized advertisements are selected based on consumer profiles and are then integrated with offerings maintained by different content providers. The preferred interactive communication system interconnects multiple consumer computers, multiple content provider computers and multiple Internet provider computers with an advertisement provider computer. Whenever a consumer directs one of the consumer computers to access an offering existing in one of the content provider computers,

an advertising request is sent to the advertisement provider computer. Upon receiving the advertising request, the advertising provider computer generates a custom advertisement based on the consumer's profile. The custom advertisement is then combined with the offering from the content provider computer and displayed to the consumer. The advertisement provider computer also credits a consumer account, a content provider account and an internet provider account each time a consumer views a custom advertisement. Furthermore, the advertisement provider computer tracks consumer responses to the customized advertisements.

Angles, Abstract

Petitioner's “Shifting Argument” for Limitation 1[C]



Decision points to Angles's Fig. 9

Petitioner contends that Angles discloses directly incorporating customized advertisements into a content provider's offering. Pet. 24 (referencing the embodiment of Angles's Figure 9). Petitioner explains that Angles describes an online game, such as an interactive car race, where customized advertisements are shown on billboards that appear in the game. *Id.* at 24–25 (referencing Ex. 1007, 21:53–22:2).

Decision 19

Petitioner's "Shifting Argument" for Limitation 1[C]

**POR highlights a deficiency:
No evidence of motivation to
combine Angles's Figs. 1 and 9**

Petition exclusively relied on Angles's Fig.9 for limitation 1[c], also evidenced by Decision, whereas it used Angles's Fig.1 for other limitations. *See* §I.A. PO argued exclusively based on Angles's Fig.9 for limitation 1[c], (Response, 26-28), but flagged a deficiency in Petitioner's analysis for not offering evidence of motivation to combine Angles's embodiments, (Response, 4-6; 9-10). Instead of

Sur-Reply 16

Petitioner's “Shifting Argument” for Limitation 1[C]

Reply shifts to Angles's Fig. 1

Finally, if the Board were to rely on a single embodiment, the claims are met by the Fig. 1 embodiment as discussed in the Petition and below.

Reply 4

Fig. 1 embodiment), the advertisement is “combined with the offering from the content provider computer and displayed to the consumer.” (Ex. 1007, Abstract.)

In the preferred embodiment, a browser of the consumer computer 12 performs this integration as part of its execution.⁶ (Ex. 1007, 8:33-67, 10:43-59, Fig. 3.)

Reply 15-16

Petitioner's “Shifting Argument” for Limitation 1[C]



Sur-Reply

Improper. *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1008 (Fed.Cir.2023)

(“[T]he Board is not permitted to entertain ‘shifting arguments’ but must, instead, reject any ‘entirely new theory of prima facie obviousness absent from the petition,’ if the petitioner attempts to inject ... post-petition.”).

Limitation 1[C]: Timing of the Integration Matters

Fig. 3.) The timing of the *content provider* integrating the content is thus irrelevant.

Reply 15

1[C]

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

Limitation 1[C]: Timing of the Integration Matters



Decision never said timing is irrelevant.

We have considered Patent Owner’s arguments and determine, on the current record, that they do not demonstrate a deficiency in Petitioner’s position. We understand Petitioner to argue that invoking the browser initiates and accesses the content offering, such as an online game. *See* Pet. 20–23. As such, when the browser accesses electronic page 32, the customized advertisement 30 is automatically integrated into the online game, that is, automatically integrated into the game as the web browser executes electronic page 32. *See* Ex. 1004 ¶ 117 (“Note that such

Limitation 1[C]: Timing of the Integration Matters

Petitioner's Expert Agrees

Q. Can the consumer computer 12 execute the electronic page 32 before the elec -- before the electronic page 32 is sent to the consumer computer 12?

A. No.

Ex.2009, 229:6-9

Q. Okay. Is it your testimony that when the content provider combines 32, which is the electronic page and customized advertisement in Figure 9, that the integration of those two happens automatically.

MR. WOO: Objection. Form.

THE DEPONENT: It is incorporated before then being submitted down to the consumer computer. It's part of a process, I suppose it would be automatic in that case.

Ex.2009, 228:3-11

Limitation 1[C]: Timing of the Integration Matters

Petitioner's Expert Agrees

Q. Can the consumer computer 12 execute the electronic page 32 before the electronic page 32 is sent to the

A. No.

Q. Okay. Is it your testimony that the content provider combines 32 page and customized advertisement integration of those two happens

MR. WOO: Objection.

THE DEPONENT: It is

being submitted down to the c

part of a process, I suppose it would be automatic in that case.

Q. Okay. Reading from lines 38 through 42, do you have an understanding of how the customized advertisement 32 is sent -- is received by the content provider computer 14 and sent along to the consumer computer 12?

A. My understanding from reading this section is that there's a customized advertisement that is incorporated into content information which is then forwarded to the user computer.

Ex.2009, 227:19-228:2

Limitation 1[C]: Timing of the Integration Matters

POSITA Agrees



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53. With regard to the “during execution of said game application” requirement, a POSITA reading the ‘028 Patent would recognize that the integration of business-related content must necessarily occur while the game application is running at the user’s device. The specification makes it very clear that initiating the game application comes before integration of business-related content into the game application: “The primary electronic device receives a request from a user to initiate the game application. The game application is initiated and integrates business-related content into the game application during the execution of the game application.” Ex. 1001, 1:67-2:4. Accordingly, the integration cannot occur before the user locally executing the game application.

Ex.2005, ¶53

Limitation 1[C]: Timing of the Integration Matters

POSITA Agrees



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53. With regard to the “during execution of said game application” requirement, a POSITA reading the ‘028 Patent would recognize that the integration

31. A POSITA reading the ‘028 Patent would understand that executing a game application means running a game program. Thus, I agree with Mr. Crane’s statement. See Ex. 2009, 220:15-18 (“Executing a game is running the game program.”).

Ex.2005, ¶31

related content into the game application during the execution of the game application.” Ex. 1001, 1:67-2:4. Accordingly, the integration cannot occur before the user locally executing the game application.

Limitation 1[C]: Timing of the Integration Matters

POSITA Agrees



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154. Petitioner relies exclusively on Angles's disclosure of FIG. 9 in its obviousness analysis. However, as discussed in Paragraphs 130-139, the content of which I incorporate herein, in Angles's FIG. 9, customized advertisements are integrated into the content provider's offerings (such as online games) prior to the consumer computer executing the same. For this additional reason, Angles does not render obvious Claim 1.

Ex.2005, ¶154

Petitioner's Shifting Theory Fails

FIG. 1

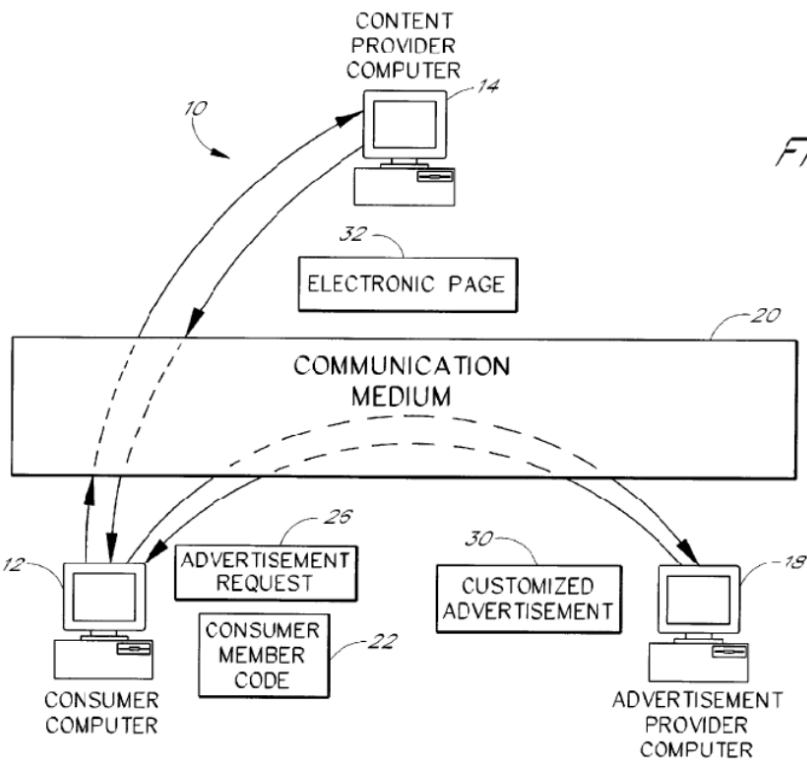
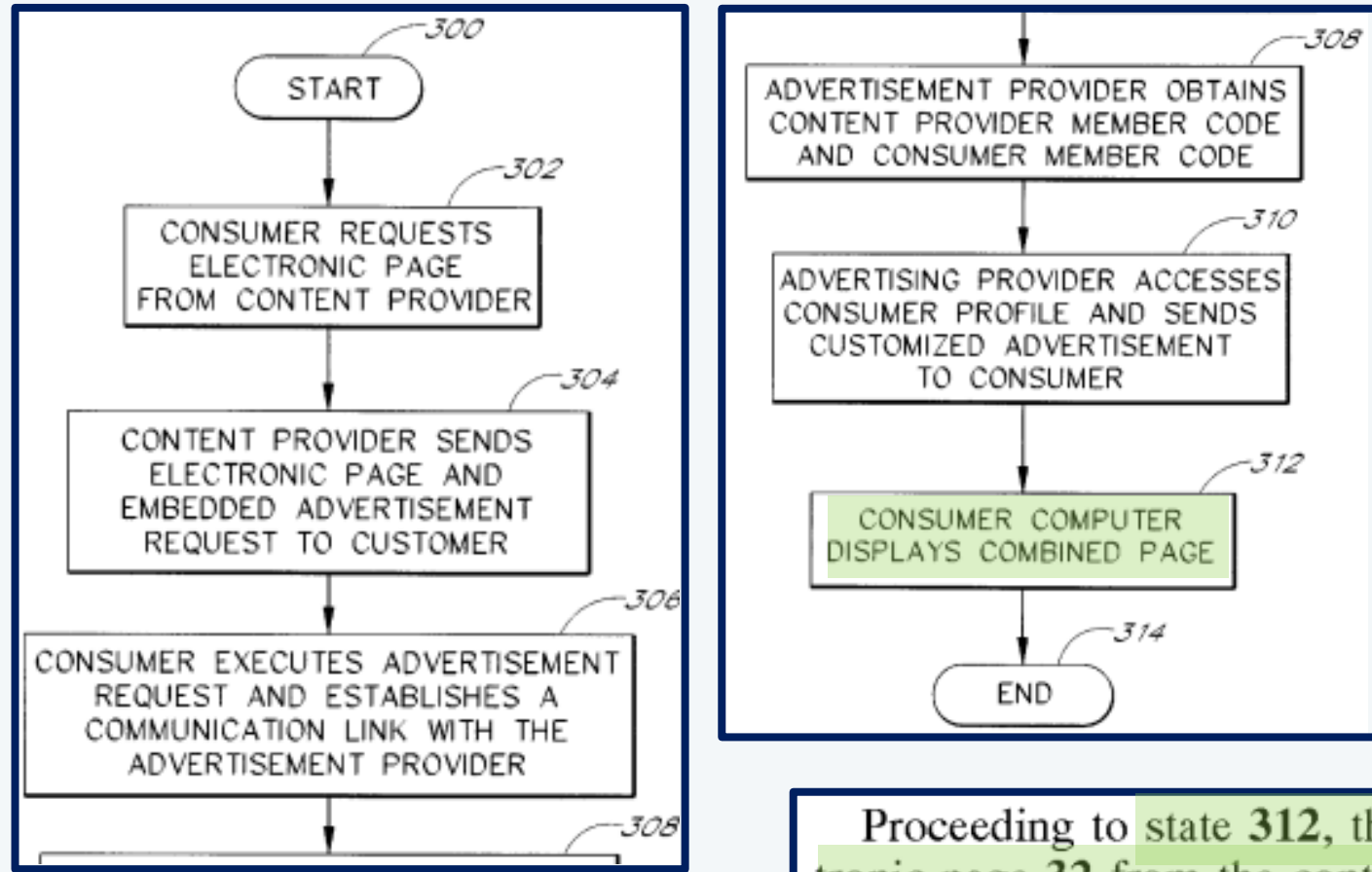


Fig. 1 embodiment), the advertisement is “combined with the offering from the content provider computer and displayed to the consumer.” (Ex. 1007, Abstract.) In the preferred embodiment, a browser of the consumer computer 12 performs this integration as part of its execution.⁶ (Ex. 1007, 8:33-67, 10:43-59, Fig. 3.)

Reply 15-16

Petitioner's Shifting Theory Fails



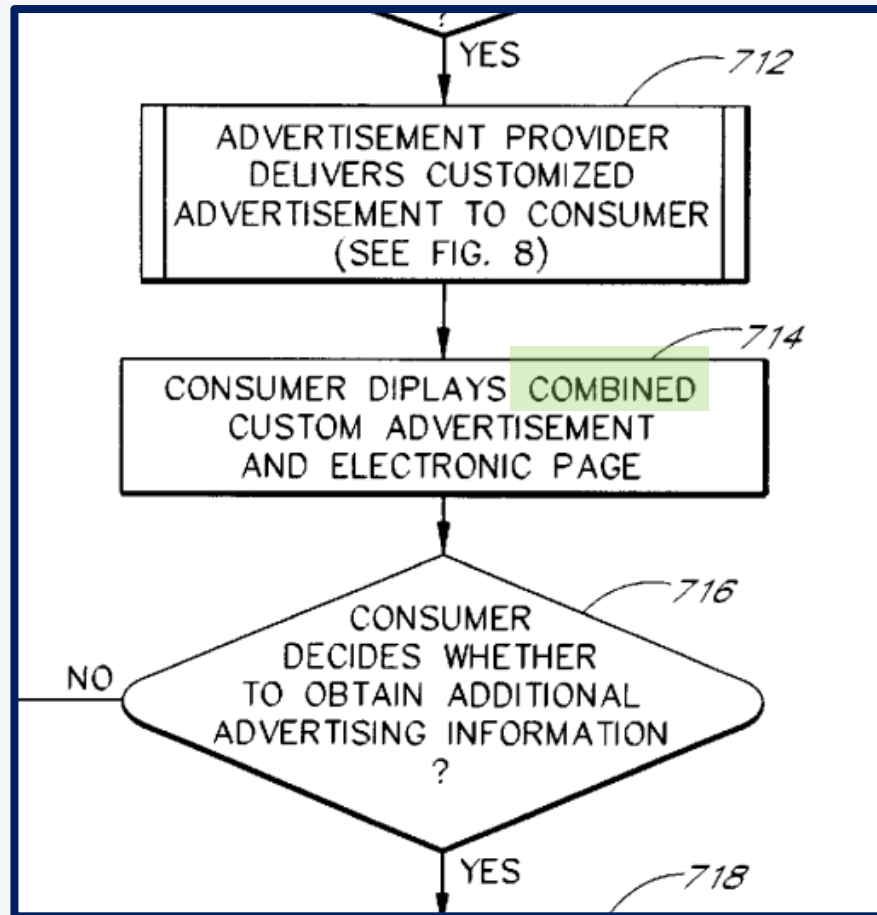
Angles, Fig. 3

FIG. 3 is a high level flow diagram of the preferred process for sending electronic information and custom advertisements to a consumer computer.

Proceeding to state 312, the process combines the electronic page 32 from the content provider computer 14 and the customized advertisement 30 from the advertisement provider computer 18 into a displayable page. Once the combined page has been displayed to the consumer, the process ends at end state 314.

Angles, 8:62-67

Fig. 1: Preferred Embodiment



After the advertisement provider delivers the customized advertisement to the consumer of state 712, the consumer receives the customized advertisement in state 714. During state 714, the consumer combines the customized advertisement with the electronic page that was requested by the consumer.

Angles, 19:60-65

FIG. 7 is a flow diagram of the preferred process whereby a consumer accesses a content provider and is thereafter sent an electronic document and customer advertisement.

Fig. 1: Preferred Embodiment

The present invention is a system and method for delivering customized electronic advertisements in an interactive communication system. The customized advertisements are selected based on consumer profiles and are then integrated with offerings maintained by different content providers. The preferred interactive communication system interconnects multiple consumer computers, multiple content provider computers and multiple Internet provider computers with an advertisement provider computer. Whenever a consumer directs one of the consumer computers to access an offering existing in one of the content provider computers,

an advertising request is sent to the advertisement provider computer. Upon receiving the advertising request, the advertising provider computer generates a custom advertisement based on the consumer's profile. The custom advertisement is then combined with the offering from the content provider computer and displayed to the consumer. The advertisement provider computer also credits a consumer account, a content provider account and an internet provider account each time a consumer views a custom advertisement. Furthermore, the advertisement provider computer tracks consumer responses to the customized advertisements.

Angles, Abstract

Petitioner's Shifting Theory Fails

Petitioner's Expert Changes Positions

Q. Can the consumer computer 12 execute the electronic page 32 before the elec -- before the electronic page 32 is sent to the consumer computer 12?

A. No.

Ex.2009, 229:6-9

Q. Okay. Is it your testimony that when the content provider combines 32, which is the electronic page and customized advertisement in Figure 9, that the integration of those two happens automatically.

MR. WOO: Objection. Form.

THE DEPONENT: It is incorporated before then being submitted down to the consumer computer. It's part of a process, I suppose it would be automatic in that case.

Ex.2009, 228:3-11

Petitioner's Shifting Theory Fails

Petitioner's Expert Changes Positions

Q. Can the consumer computer 12 execute the electronic page 32 before the elec -- before the electronic page 32 is sent to the consumer com

A. No.

Ex.2010, 436:12-16

You testified on redirect that the consumer computer was combining the electronic page and customized advertisement. Is that correct, sir?

A. I don't believe I used the term "combining" there.

Q. Okay. Is it your testimony that when the content provider combines 32, which is the page and customized advertisement in Figure integration of those two happens automatically

Ex.2010, 437:4-7

THE DEPONENT: I don't see the testimony in front of me that you're questioning. I believe I was saying that the integration can happen at the consumer computer.

MR. WOO: Objection. Form.

THE DEPONENT: Ex.2010, 437:22-438:1

being submitted down to the consumer com

THE DEPONENT: I believe my testimony was that the advertisement and the content are combined in the content provider, delivered to the consumer computer. In redirect, we were talking about what also happens in the consumer computer.

POR 17-18 (Ex.2005, ¶¶135-138(citing Ex.2010, pp. 436-38)); Sur-Reply 17-18 (citing Ex.2010, 437:9-438:1, 423:7-424:6)

Petitioner's Shifting Theory Fails

(Std100)
integration (1) (software) The process of combining software components, hardware components, or both **into an overall system.**
(C) 610.12-1990

Ex.2008, 537

integration *n.* 1. In computing, the combining of different activities, programs, or hardware components **into a functional unit.** *See also* integral modem, integrated software,

Ex.2007, 277

Petitioner's Shifting Theory Fails

Q. Would a POSITA reading Angles understand that the only place where customized advertisements could be integrated into an online game is at the content provider computer?

A. No.

Q. And why not?

A. If you are integrating customized advertisements into virtual reality environments on billboards, for example, that integration has to occur inside the game code, which is on the client device, in order to change its perspective to match the billboard as you're driving around in a 3D world, for example.

Ex.2010, 423:7-18

Petitioner's Shifting Theory Fails

Q. Would a POSITA reading Angles understand that the only place where customized advertisements could be integrated into an online game is at the content provider computer?

A. No.

Q. And why not?

A. If you are integrating customized advertisements into virtual reality environments on billboards, for example, that integration has to occur inside the game code, which is on the client device, in order to match its perspective to match the billboard as you move around in a 3D world, for example.



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	Accessible At	Not Accessible At
Locally Executed	Play a game on a user's device by inserting a CD-ROM containing the game application	Online Games
Not Locally Executed	Game housed on the server device with no need for relying on input/output device	Remote Play

Ex.2005, ¶40

Petitioner's Shifting Theory Fails



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133. Therefore, it is important to note that by Angles's own admission only FIG. 9 embodiment is capable of integrating advertisements into online games, and such integration takes place at the content provider's computer "prior to sending [the game] to the consumer." *See* Ex. 1007, 21:38-52. Angles's FIG. 1 has no applicability to online games or gaming in general, which is supported by Angles's own disclosure. In my opinion, this would be a POSITA's understanding of this excerpt.

Ex.2005, ¶133

Limitation 1[D]: Hyperlinking is not Automatic

automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

**Petitioner points to Angles's
hyperlink mouse click**

Limitation 1[D]: Hyperlinking is not Automatic

**Petitioner points to
Angles's hyperlink
mouse click**

In Angles, the user is being automatically re-directed to web pages containing business-related content as part of the user executing said game application while the game is being run. *See* Ex-1007, 4:6-16 (“The invention also supports custom **advertisements which can contain hyper-links to other information.** The hyper-links typically direct the user’s Internet browser to access different websites on the Internet. For example, **if a consumer wishes to obtain additional information about an advertised product or service,** the consumer may simply use a mouse to **select an embedded hyper-link in the custom advertisement and be immediately transported to an advertiser’s website.** At the advertiser’s website, the user may receive a directed sales pitch, more information or a purchase order request form.”).

Limitation 1[D]: Hyperlinking is not Automatic



Decision points to Hyperlinking

game application.” Ex. 1001, 7:28–33 (limitation “1[d]”). Petitioner contends that Angles discloses in the embodiment of Figure 9, that customized advertisements are integrated into the offering, such as online game, accessed by the consumer computer. Pet. 26 (referencing Ex. 1007, 21:35–44, 21:53–60). Petitioner explains that these advertisements may include embedded hyperlinks that the consumer can click on to go to an external website. *Id.* at 27 (referencing Ex. 1007, 4:6–16); *see also* Ex. 1004 ¶¶ 78, 119–122 (providing Mr. Crane’s testimony related to this limitation).

POSITA Agrees: Hyperlinking is not Automatic



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Ex.2005, ¶52

52. A process occurs automatically if “under specified conditions” it occurs without manual intervention by a human operator. Ex. 2008 at 58 (definition of “automatic”). Consider a scenario where a game application comprises multiple levels, and a player unlocks the next level automatically upon completing the current one. In this case, the specific condition triggering the automatic unlocking is the player’s completion of the current game level. Now, contrast this with a different scenario: a user reading an article that contains a hyperlink at the end. Clicking on this hyperlink would redirect the user to another webpage. However, upon finishing reading the article, the user is not automatically redirected to the linked webpage. Instead, the user must manually click on the hyperlink for the redirection to take place. Thus, this process does not occur automatically.

Angles's Hyperlinking is not Integrated into Game

automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

Angles's Hyperlinking is not Integrated into Game

**Petitioner points to
Angles's hyperlink
mouse click**

In Angles, the user is being automatically re-directed to web pages containing business-related content as part of the user executing said game application while the game is being run. *See* Ex-1007, 4:6-16 (“The invention also supports custom **advertisements which can contain hyper-links to other information.** The hyper-links typically direct the user’s Internet browser to access different websites on the Internet. For example, **if a consumer wishes to obtain additional information about an advertised product or service,** the consumer may simply use a mouse to **select an embedded hyper-link in the custom advertisement and be immediately transported to an advertiser’s website.** At the advertiser’s website, the user may receive a directed sales pitch, more information or a purchase order request form.”).

Angles's Hyperlinking is not Integrated into Game

POR's argument
stands unrebutted

Second, in Angles the re-direction is not “integrated into said game application.” Ex-2005, ¶157. Put differently, Angles’s re-direction is not part of the game, which requires the user to visit the “web pages of said secondary electronic device” to perform game-related tasks. Angles merely discloses that “if a consumer wishes to obtain additional information,” the consumer can choose to manually be re-directed by clicking on the embedded hyperlinks. Angles, 4:61-16. Contrary to the express language of this limitation, Angles’s re-direction is a user choice.

Re-Direction must be Integrated into Game

business-related content 76, 82 and 88. Following initiation of the game application 64, the occurrence of a pre-determined event in the game causes a transparent re-direction to one of the customized web pages 74, 80 and 86. The web pages expose the user 60 to additional business-related content in the context of the ongoing game. Game actions under-

Ex.1001, 4:14-24

the goods and services of a particular company. The game requires the user to perform certain tasks specified in the game. In the course of conducting the tasks, the user is transparently re-directed to a corporate sponsor's customized web site to finish the completion of a task. While at the sponsors corporate web site, the game player is exposed to additional business-related content which relates to the game the user is playing. All of the business-related content displays occur within the context of the player playing the game. The player

Ex.1001, 1:42-56

POSITA Agrees: Re-Direction Integrated into Game



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Ex.2005, ¶157

157. However, besides the fact that Petitioner relies on FIG. 1 of Angles, which cannot be combined with the FIG. 9 embodiment, the sections of Angles's disclosure that Petitioner relies on do not teach this limitation. Petitioner draws from Angles's disclosure of hyperlinking, which offers a consumer the choice to manually click on a hyperlink for immediate transportation to another website to learn more about an advertisement. *See* Pet. 27. However, Angles's disclosure of re-direction via hyperlink does not teach automatic re-direction as part of the gameplay that the consumer must necessarily undergo. For this additional reason, Angles does not render obvious Claim 1.

Petitioner’s Shifting Argument for Limitation 1[A]

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

Petition	Decision	POR	Reply
Angles’s “ <u>online game accessible over the Internet</u> ”	“the consumer accesses the online game using a browser running on the consumer computer.”	Online games are not accessible at the user’s device	Angles’s browser is the game application

Pet. 22

Decision 16-17

POR 24-25

Reply 9, 13-14

Petitioner's Shifting Argument for Limitation 1[A]



Decision points to online games

network.” Ex. 1001, 7:18–21 (limitation “1[a]”). Petitioner contends that a consumer computer receives instructions from a consumer to initiate or access an offering, which may include an online game. Pet. 21–22 (referencing Ex. 1007, 7:49–52, 9:5–7, 10:21–23). Petitioner contends that the consumer accesses the online game using a browser running on the consumer computer. *Id.* at 22 (referencing Ex. 1007, 10:46–50). Petitioner contends that a person having ordinary skill in the art would have understood that a browser residing on a local computer makes the accessed game application locally execute. *Id.* (referencing Ex. 1004 ¶¶ 72, 84, 109,

Decision 16-17

Petitioner's Shifting Argument for Limitation 1[A]

Reply

browser configurations known by 2002. Medvidovic's web browsers are game applications: they are computer programs that assist in performing a game (i.e., Lunar Lander), falling squarely within the dictionary definition of "application" above. (Ex. 1025, ¶38; Ex. 1017, 31.) Further, they are executed locally according to Dr. Medvidovic's textbook: "*all the game logic* moves to the client machines, freeing the server's computing resources." (Ex. 1026, 116, 118; Ex. 1025, ¶38; Ex. 1017, 31.) A POSITA in 2002 would thus have understood a web browser, such as in Angles, to teach a game application. (Ex. 1025, ¶38.)

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Petitioner's Shifting Argument for Limitation 1[A]

Reply

browser configuration

applications: the

Lunar Lander),

above. (Ex. 102

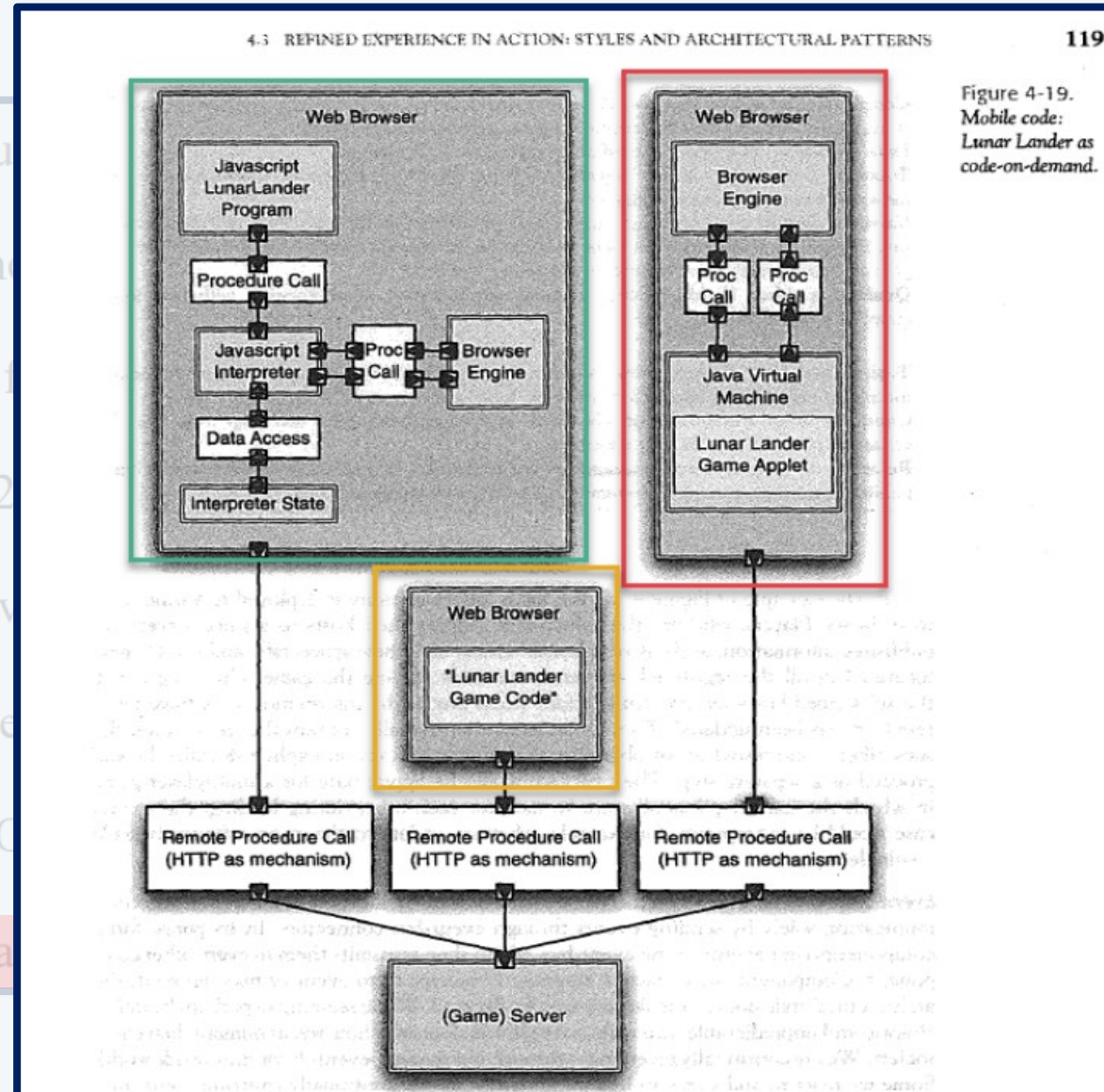
to Dr. Medvidov

freeing the server

1017, 31.) A PC

in Angles, to tea

Reply 12-13



Petitioner's Shifting Argument for Limitation 1[A]

POSITA Disagrees



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Upon encountering his textbook for the first time in this proceeding, Dr. Medvidovic unequivocally testified:

[W]eb browsers in my textbook are a specific anti-pattern, all three examples of something that you would not do in practice for a video game such as “Lunar Lander.” So to the extent that you want to build an example of Figure 1 as something that you should not do in -- in practice, then maybe we could consider that. ... I don’t think that’s appropriate.

Sur-Reply 12

Petitioner's Shifting Argument for Limitation 1[A]

POSITA Disagrees



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THE WITNESS: That's the whole point of my whole discussion here, is that "Lunar Lander" was used as a running example for each one of these styles.

And for many of them, it was used, in a sense, as a -- an anti-pattern, because "Lunar Lander" itself is so simplistic that applying one or more of these styles on it was counter-productive.

So there is really -- the game state itself has to do with what's happening while you're running the game, and that is created from the point at which you start executing the game, and it disappears at the point at which you either land or crash.

Ex.1023, 121:4-21

Petitioner's Shifting Argument for Limitation 1[A]

POSITA Disagrees



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And in this case, there is something that is absolutely missing from the requestor, which is state. There is no state in any one of the three web browsers.

So this is why again, this is not this is not how you would build "Lunar Lander."

And, in fact, it's also suggested by the fact that this doesn't describe "Lunar Lander" -- it describes three different deployments -- pro- -- deployment profiles for three different instances of "Lunar Lander," because it would make no sense to go one level below and show how you actually designed "Lunar Lander" using this style.

Ex.1023, 125:21-126:19

Robinson

Robinson Teaches a 3D Desktop

“Being in” a computing environment is more intuitive and user-friendly than merely “looking into” it. It is far more intuitive, easier and “brain friendly” to comprehend large amounts of data in the form of “visual objects”, particularly three-dimensional (3D) objects.

Robinson, 1:33-35

Accordingly, there is a need for an improved system and method to configure and provide network-enabled three-dimensional computing environments.

Robinson, 1:39-49

Robinson Teaches a 3D Desktop

environments. The presently disclosed technology enables users to interact fully, intuitively and far more easily “in” a spatial 3D environment. This technology enables each user to create an intuitive 3D desktop environment tailored to their specific needs. When turned on, the user’s computer screen displays a 3D room or scene, which can be customized with virtual objects. The user can “enter” the space, rather than merely “view it”, operate intuitively within it (360° in every direction), and invite others to enter, participate and interact in that space. This novel technology offers an enjoyable, interactive environment as a welcome alternative to the current predominantly 2D, text-based Internet experience.

Robinson, 1:55-67

Robinson's 3D Computing Environ. is a 3D Desktop

When a conventional computer user turns his or her computer on, he or she sees a flat desktop computing environment with icons on the glass surface of the monitor; currently, no one “owns” the computer desktop or has done much with the desktop other than simple screen savers. The present invention improves this desktop computing environment by creating a 3D visual interface for computing environments. With the interface of the present invention, a user turns his or her computer on and the monitor immediately displays the computer desktop as a 360°, 3-Dimensional room “inside” of the monitor—a 3D computing environment. Looking at a 3D-enabled computer, the user will be looking into a computing “room”—a room with depth and dimensions, not a flat glass surface. Standard computer icons, that would normally reside only on the 2D flat glass surface of the monitor, can be spatially placed anywhere in the 3D environment.

Robinson, 5:11-27

Robinson's 3D Computing Environ. is a 3D Desktop

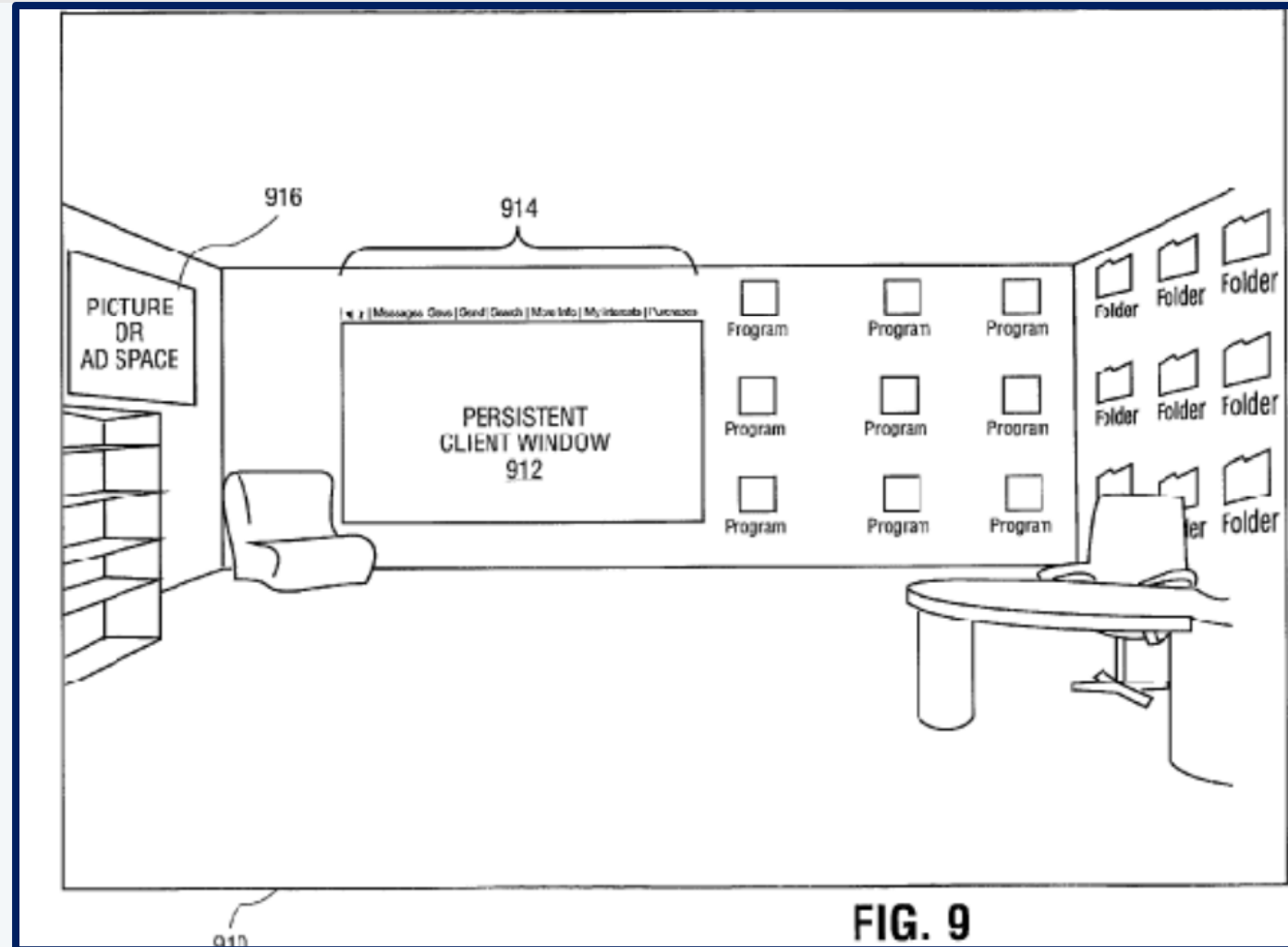
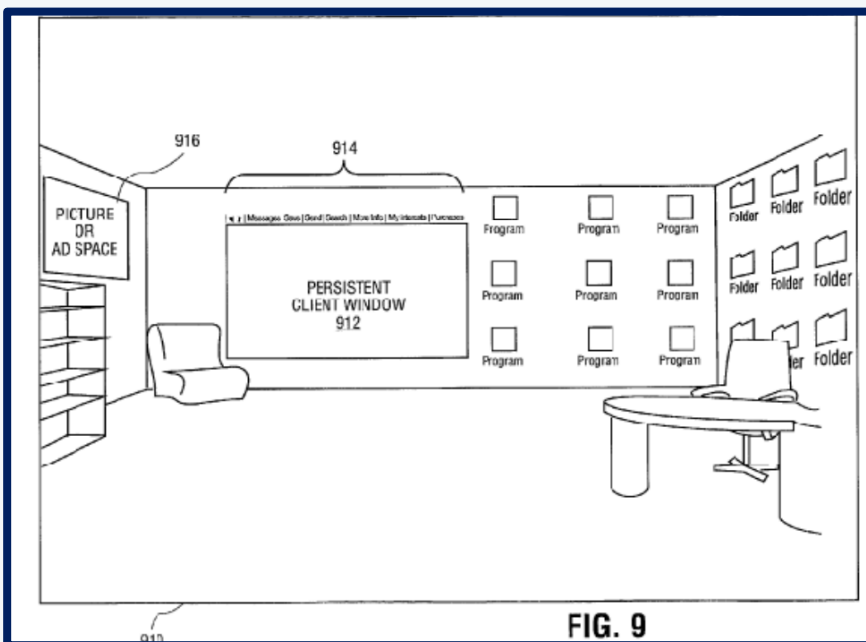


FIG. 9 is an example of a user desktop illustrating the presence of the Persistent Client Window.

Robinson, Fig. 9

Petitioner's Expert Agrees



Q. Okay. And generally, what is the -- your understanding of the persistent client window 912?

A. It's a window within the three-dimensional desktop that Robinson talks about as part of his invention.

Ex.2010, 348:25-349:4

Q. Okay. And what is a three -- or do you have an understanding of what a virtual desktop means?

MR. WOO: Objection. Form.

THE DEPONENT: Yeah. I mean, Robinson talks about this at length. This is -- this is your computer display. But instead of just looking at icons and various backgrounds, it's a 3D view. It's kind of a three-dimensional browser. So, yeah, that's -- that's something that Robinson talks about a lot.

Ex.2010, 349:5-13

POSITA Agrees



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188. Drawing from my analysis in Paragraphs 181-187, it is my conclusion that a POSITA reading the clear and unambiguous statements in the Robinson specifications together with statements made during the prosecution history would conclude that Robinson's disclosure merely "enables users to interact fully, intuitively and far more easily 'in' a spatial 3D environment." *Id.*, 1:55-57.

Ex.2005, ¶188

Robinson's Sole Mention of Online Games

The network-enabled 3D computing environment of the present invention has several extensions, including: the introduction of real-time avatars. Avatars are virtual representations of users, allowing them to interact with other users across a network. The ability to create an interactive online community is very powerful. Such a utility would allow for intra- and inter-company meetings, the extension of the online communities which exist today, virtual concerts, online games, etc. Other uses of avatars with the present invention are described herein in a subsequent section.

Robinson, 9:29-39

Robinson's Sole Mention of Online Games

Companies such as id Software (the makers of Quake), Blizzard North (the makers of Diablo), and others have explored limited avatar use with startling results. The Diablo server had, at one point, over 320,000 simultaneous connections. The present invention can be used with this conventional technology to create a population of network-enabled 3D computing systems, with people interacting in virtual cafes, offices, showrooms, etc. The network-enabled 3D computing environment allows for the creation of a cyberspace experience previously only available in science fiction.

Robinson, 9:40-49

POSITA Agrees



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207. Based on the “startling results” reported by game companies that used avatars in a limited manner in their games, Robinson concludes that playing these games on a 3D desktop of “[t]he present invention” would “create a population of network-enabled 3D computing systems, allow[ing] for the creation of a cyberspace experience previously only available in science fiction.” *Id.* Accordingly, it is my opinion that a POSITA reading this excerpt would understand no more than Robinson merely describing the advantage of playing an avatar-based game on a 3D desktop.

Ex.2005, ¶207

POSITA Agrees



Nenad Medvidović

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208. In my opinion, a POSITA would not understand from this excerpt how to create a game application into which business-related content can be integrated from external websites. Nor does this excerpt inform a POSITA how a player of a game application can be re-directed to an external website as part of the game play.

In sum, in view of Robinson's subject matter and the plain language of the excerpt relied on by Mr. Crane, it is my opinion that Robinson does not enable a POSITA to arrive at the '028 claims.

Ex.2005, ¶208

Petitioner: Unable to Identify a Game Application

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

Petitioner: Unable to Identify a Game Application

Petition points to Robinson's 3D Desktop

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

Pet. 46

concerts, **online games**, etc.”). In other words, the 3D computing environment can be a locally executed game application. Business-related content such as an advertisement is integrated into the network-enabled 3D computing environment on the client machine. Ex-1008, 9:8-11 (“e-commerce system 360 takes advantage

Pet. 54

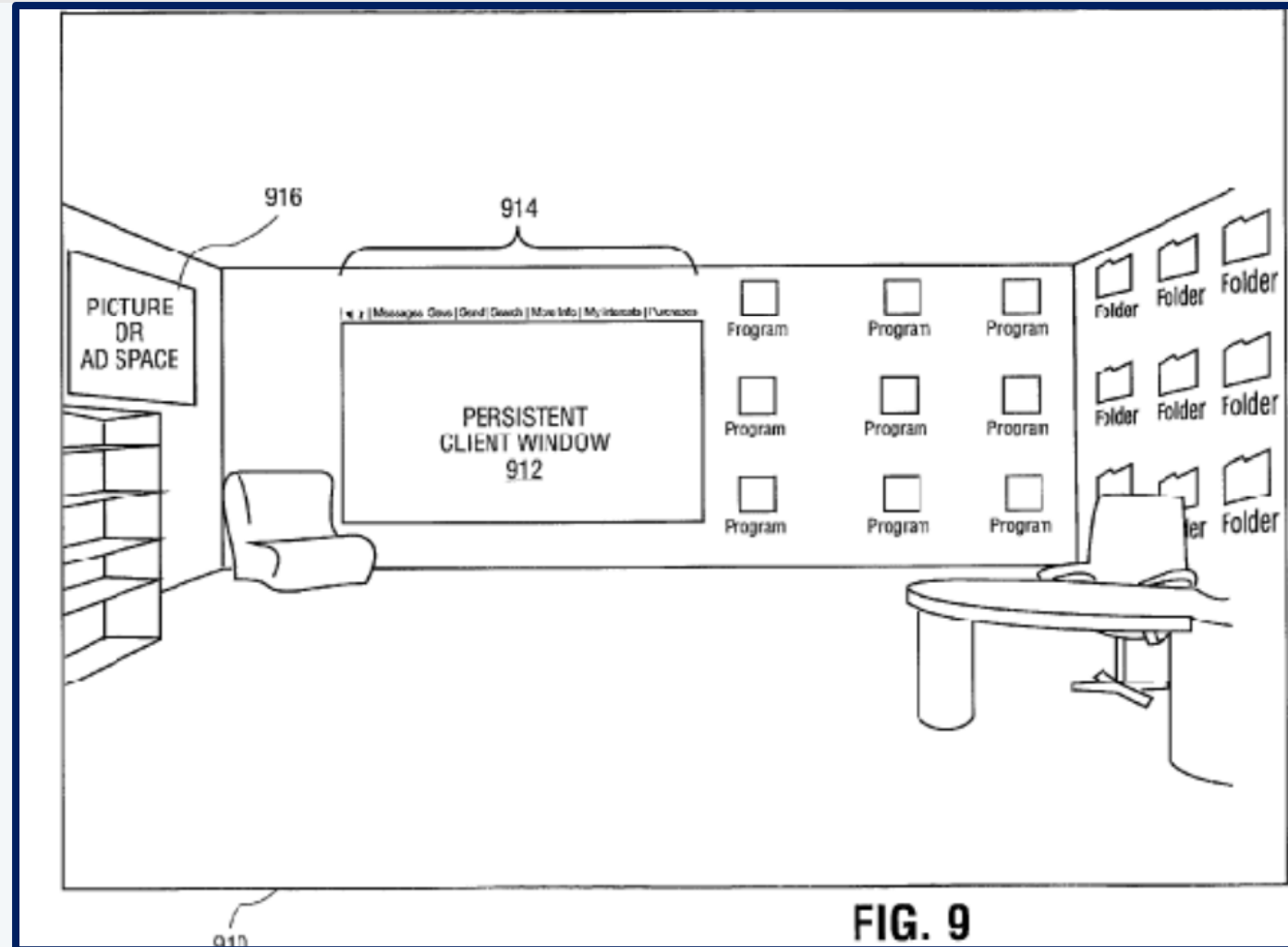
Robinson teaches this limitation. A POSITA would have recognized that the 3D environment taught by Robinson could be a **game application**. Ex-1004, ¶208.

Robinson's 3D Computing Environ. is a 3D Desktop

When a conventional computer user turns his or her computer on, he or she sees a flat desktop computing environment with icons on the glass surface of the monitor; currently, no one “owns” the computer desktop or has done much with the desktop other than simple screen savers. The present invention improves this desktop computing environment by creating a 3D visual interface for computing environments. With the interface of the present invention, a user turns his or her computer on and the monitor immediately displays the computer desktop as a 360°, 3-Dimensional room “inside” of the monitor—a 3D computing environment. Looking at a 3D-enabled computer, the user will be looking into a computing “room”—a room with depth and dimensions, not a flat glass surface. Standard computer icons, that would normally reside only on the 2D flat glass surface of the monitor, can be spatially placed anywhere in the 3D environment.

Robinson, 5:11-27

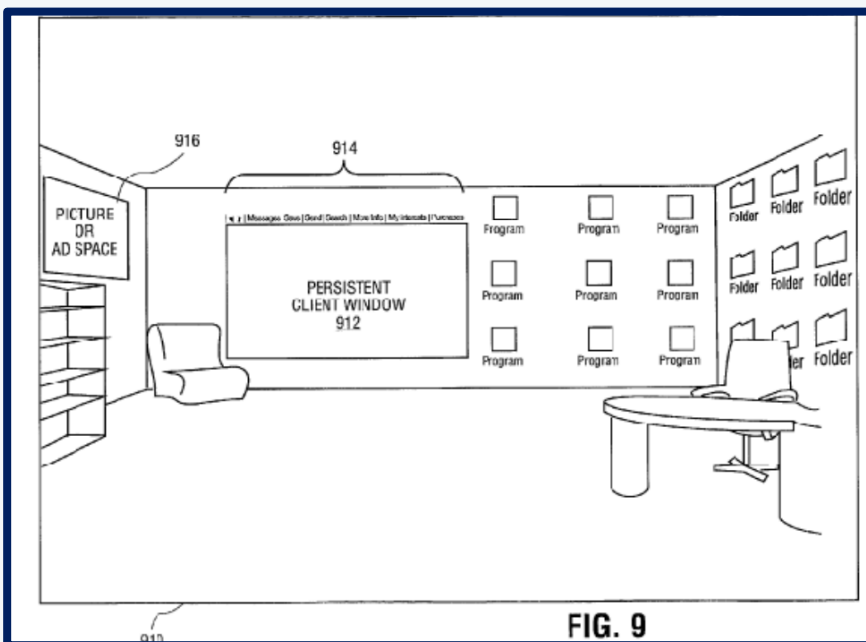
Robinson's 3D Computing Environ. is a 3D Desktop



Robinson, Fig. 9

FIG. 9 is an example of a user desktop illustrating the presence of the Persistent Client Window.

Petitioner's Expert Agrees



Q. Okay. And generally, what is the -- your understanding of the persistent client window 912?

A. It's a window within the three-dimensional desktop that Robinson talks about as part of his invention.

Ex.2010, 348:25-349:4

Q. Okay. And what is a three -- or do you have an understanding of what a virtual desktop means?

MR. WOO: Objection. Form.

THE DEPONENT: Yeah. I mean, Robinson talks about this at length. This is -- this is your computer display. But instead of just looking at icons and various backgrounds, it's a 3D view. It's kind of a three-dimensional browser. So, yeah, that's -- that's something that Robinson talks about a lot.

Ex.2010, 349:5-13

Petitioner: Unable to Identify a Game Application

Reply points to Robinson's Persistent Client Kernel

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

1017, 31.) As Petitioner explained, Robinson's 3D computing environment is used for online games; and its client kernel is installed on the user's desktop environment, assisting in the performance of such online games. (Petition, 47.)

This is consistent with the definition of game application described above: a program designed to assist in the performance of a game. (Ex. 1017, 31.)

Petitioner: Unable to Identify a Game Application

Reply points to Robinson's Persistent Client Kernel

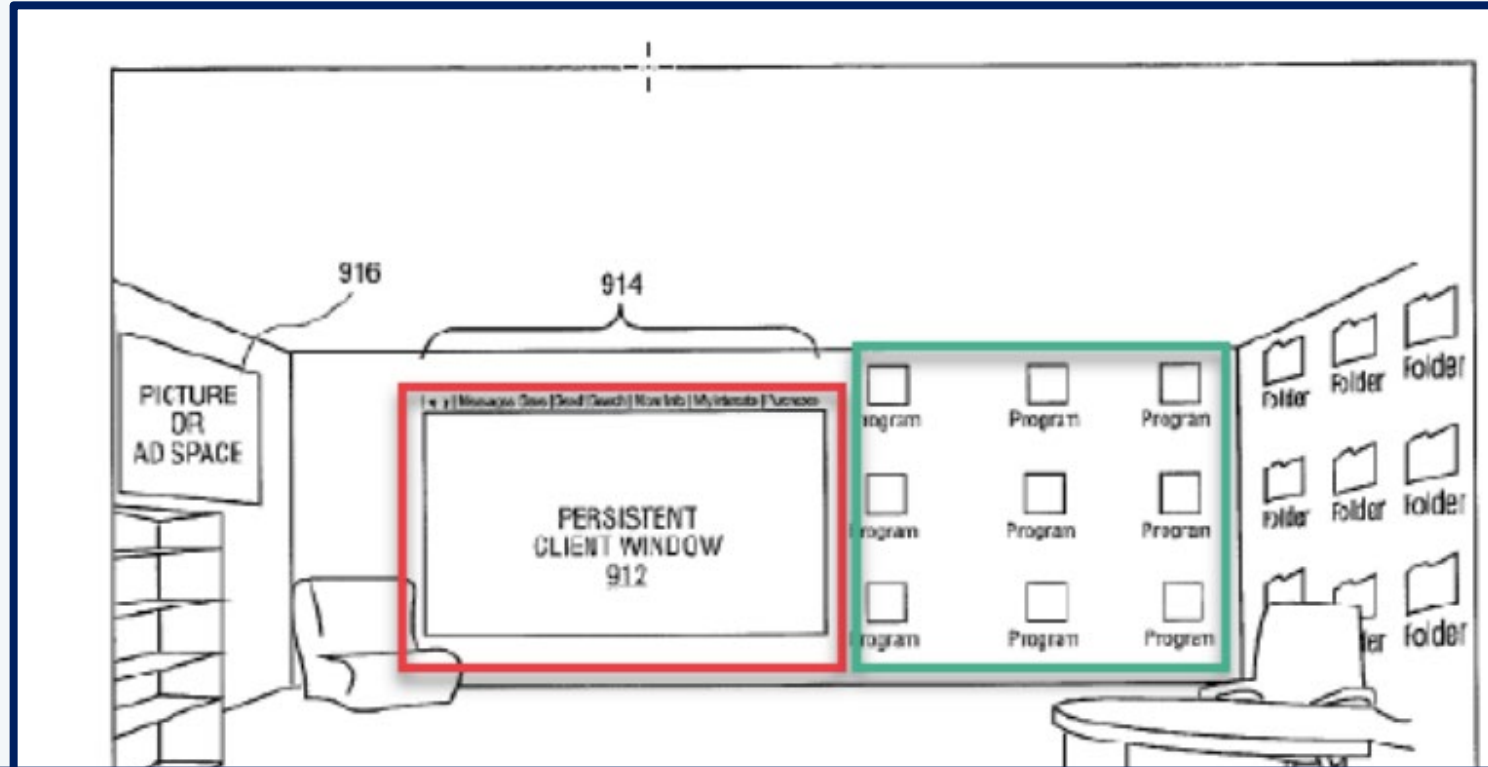


Fig. 9 illustrates persistent client window 912 of the client kernel, assisting alongside other programs (e.g., online games, in green) in supporting Robinson's 3D computing environment:

FIG. 9

Robinson's Fig. 9 is a 3D Desktop

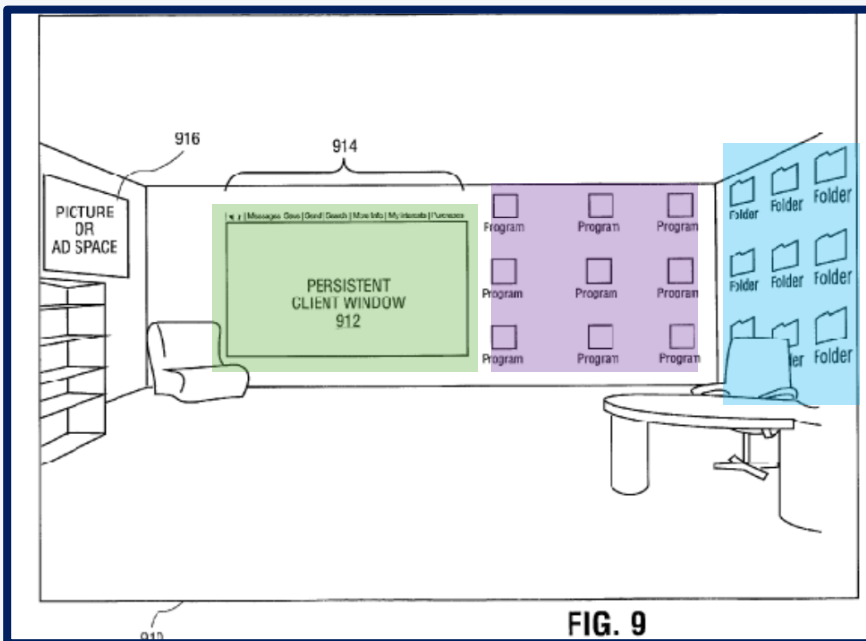


FIG. 9 is an example of a user desktop illustrating the presence of the Persistent Client Window.

green),” Reply, 26-27, but never explains how exactly persistent window assists programs in the green box. Further, Fig.9 shows “a user desktop illustrating the presence of the Persistent Client Window.” Robinson, 2:24-24. Consistent with PHOSITA’s understanding of “desktop,” Robinson’s desktop shows icons for folders and programs on user’s device, except Robinson’s desktop is 3D and includes a persistent window for advertisement. Ex-2005, ¶¶191-92 (describing Fig.9). Robinson never states, nor does Petitioner provide citation, the kernel assists with running programs. Robinson’s programs are run independently of the kernel—

POSITA: Kernel Never Assist with Running Programs

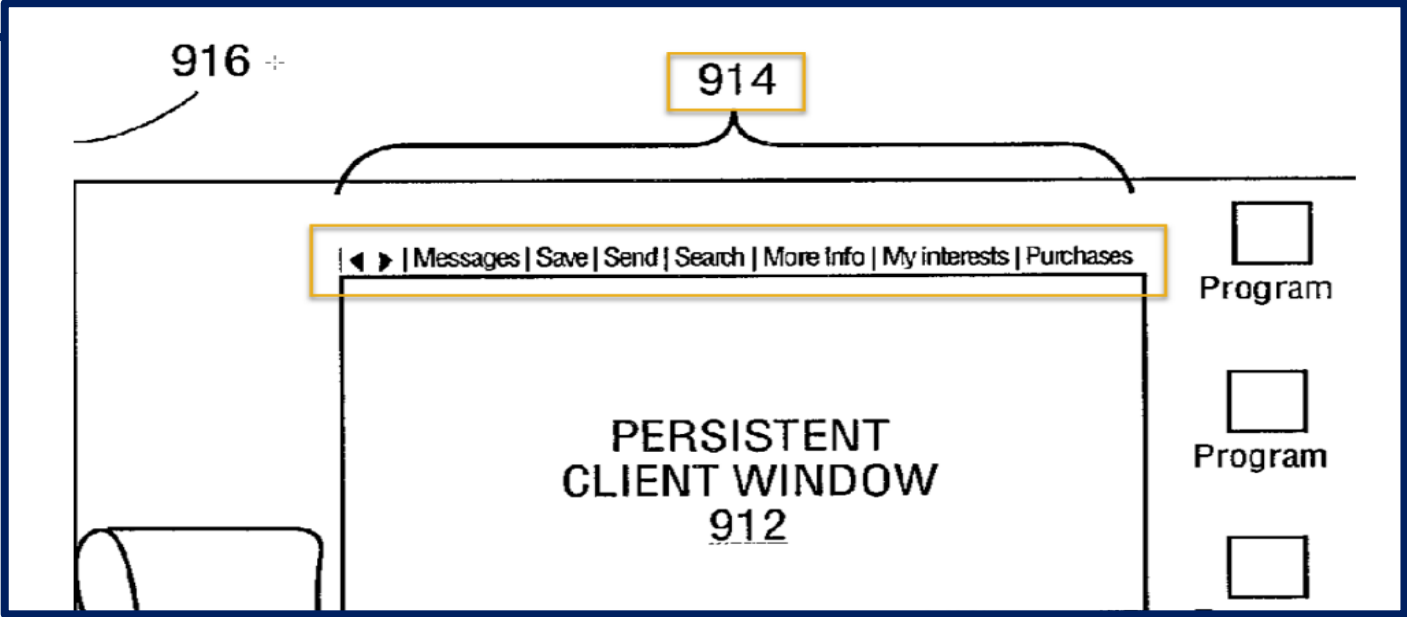


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192. Robinson’s FIG. 9, reproduced below, is an illustration of “Persistent Client-enabled desktop” with a persistent client window 912. “As shown in FIG. 9, a portion 916 of the persistent client desktop environment 910 is allocated for the positioning of 2D or 3D advertisements, pictures, promotions, or messages.” *Id.*,

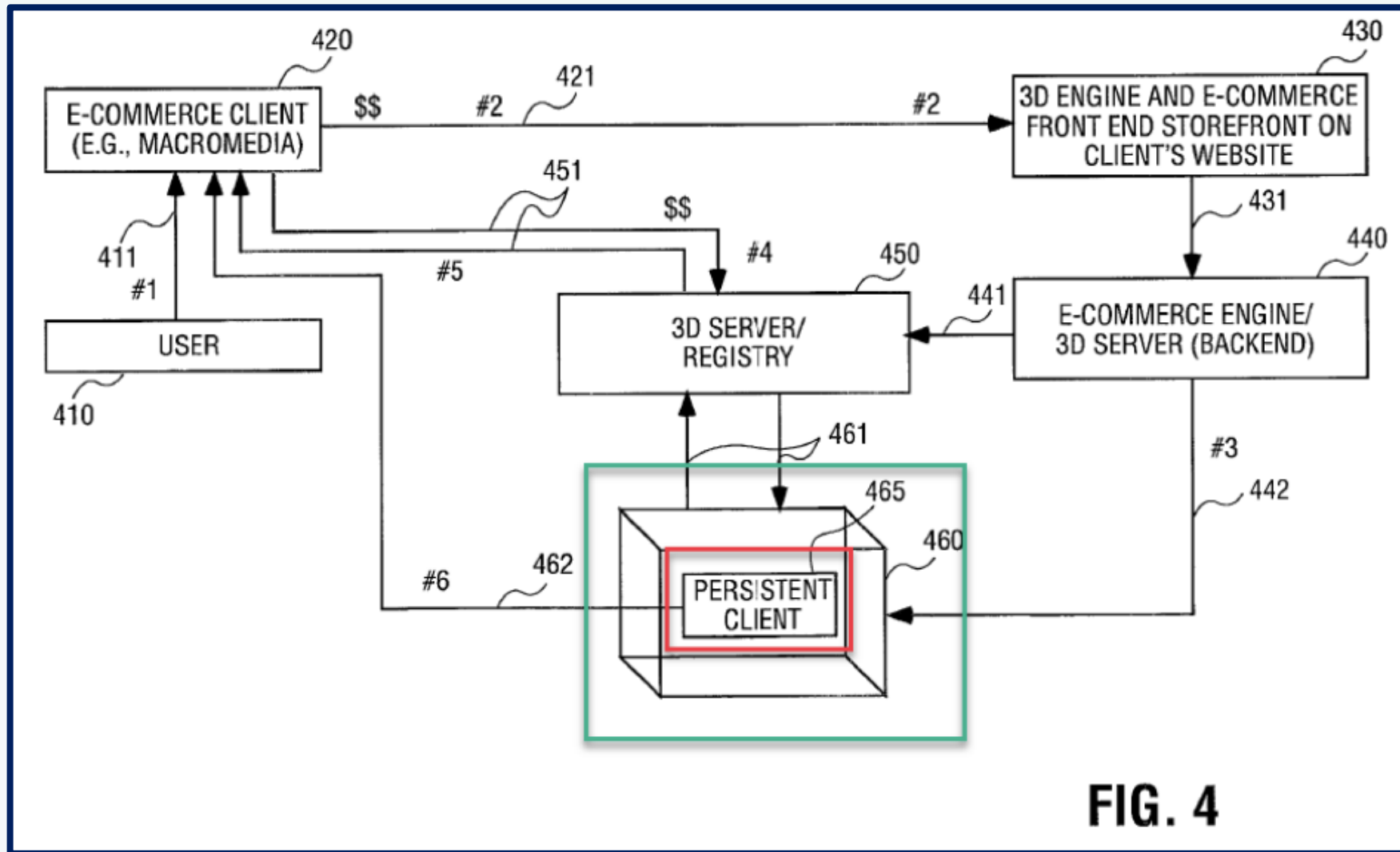
15:11-14.

Ex.2005, ¶192

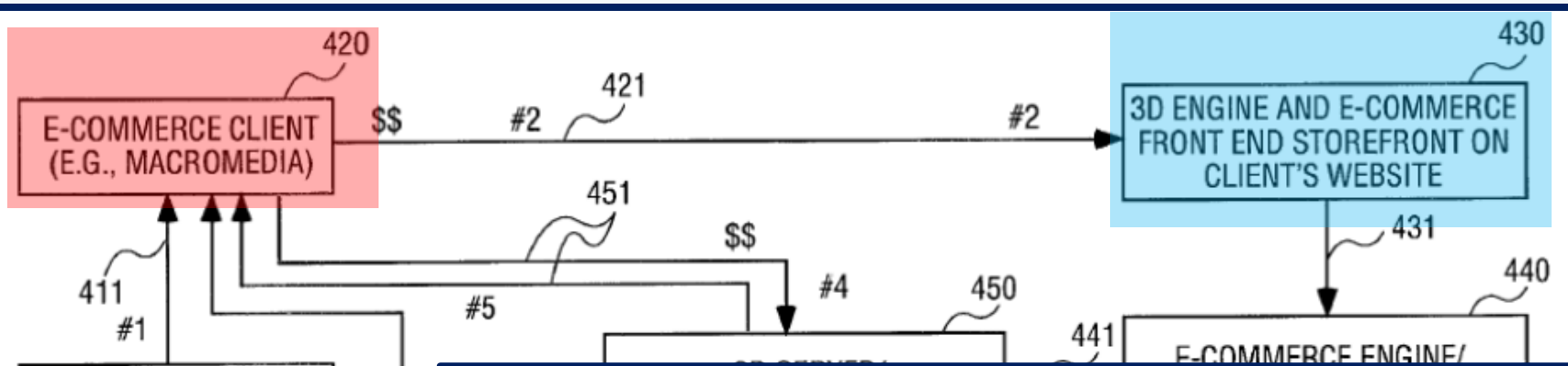


Reply 28

What is Robinson's Persistent Client Kernel?



What is Robinson's Persistent Client Kernel?



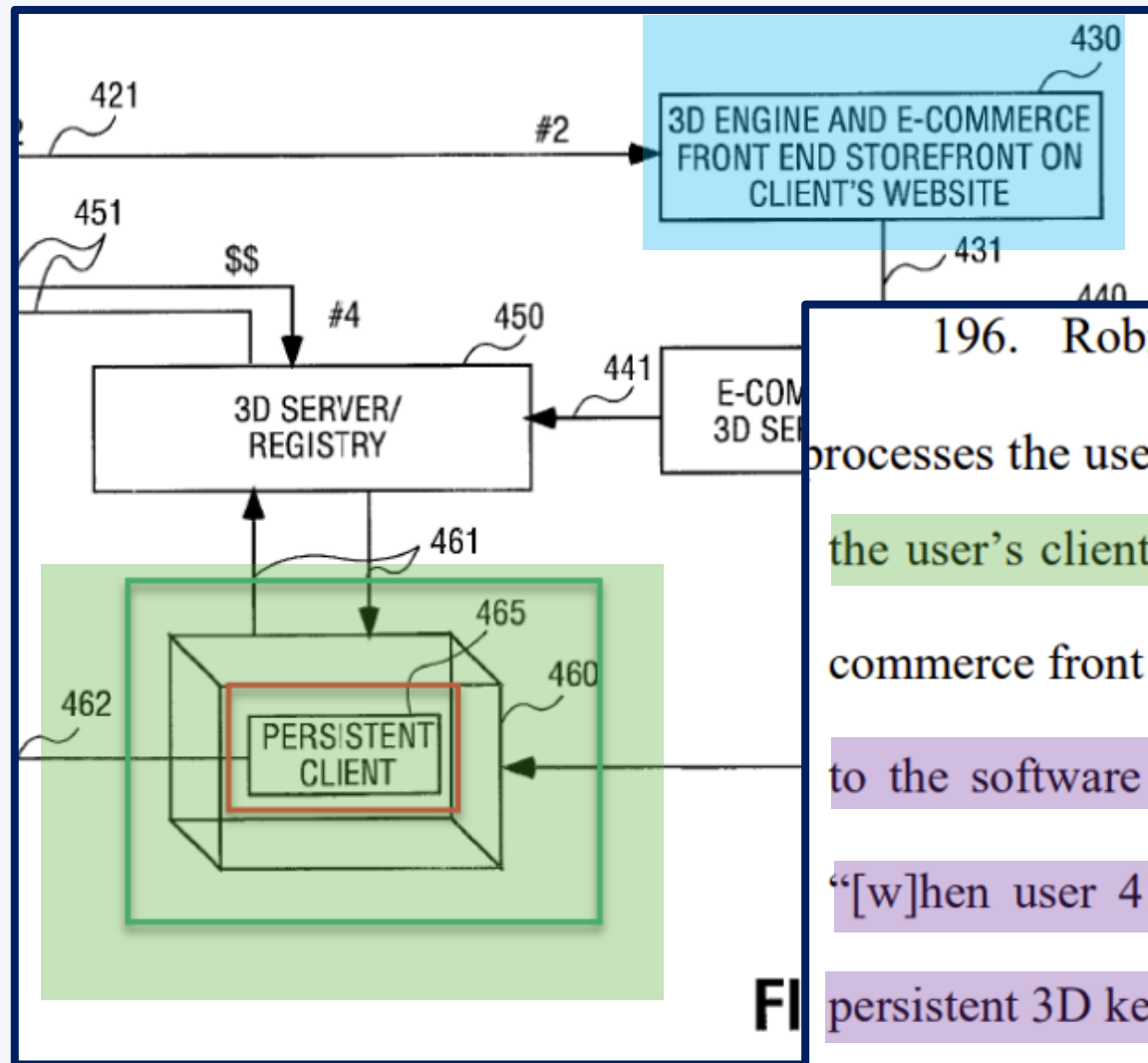
195. Referring to Robinson's FIG. 4, reproduced above, Robinson illustrates "a user 410 access[ing] [] a networked e-commerce website 420" to purchase software. *Id.*, 9:66-10:3. Via utilizing Robinson's invention, "the user 410[']s access and request for purchase to e-commerce client 420 causes the e-commerce client 420 software to make an access to a 3D engine and e-commerce front end store front [sic] 430 on e-commerce client website 420." *Id.*, 10:7-12.



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What is Robinson's Persistent Client Kernel?



196. Robinson explains that this “3D engine and e-commerce front end 430 processes the user 410 order and downloads the requested or purchased software to the user’s client machine 460.” *Id.*, 10:15-18. Specifically, “the 3D engine and e-commerce front end 430 may append a persistent 3D environment client kernel 465 to the software requested or purchased by user 410,” (*Id.*, 10:20-23), such that “[w]hen user 410 installs the downloaded software on client machine 460, the persistent 3D kernel is automatically installed on the user’s desktop environment at client machine 460.” *Id.*, 10:26-29.

Kernel Appended to Purchased Software: Add-On



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198. Given this disclosure, and my analysis in Paragraphs 195-197, a POSITA reading Robinson would understand that Robinson’s “persistent 3D environment client kernel 465” is not a stand-alone software—it is merely an add-on “append[ed]” to “the software requested or purchased by user 410.” *Id.*, 10:21-23.

Kernel Appended to Purchased Software: Add-On

Q. So the last word on the left-hand side is 'add-on.'

Do you see that, Mr. Crane?

A. I do.

Ex.2016, 96:2-5

Q. Sure. Would you please read the definition two for me?

A. Definition two reads: "A supplemental program that can extend the capabilities of an application program. See also utility program."

Ex.2016, 96:13-17

Q. Can plug-in extend the capabilities of an application program?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: And as I believe I did state that, in fact, a plug-in can extend the capabilities of a program.

Ex.2016, 97:10-15

Kernel Extends Capabilities of Robinson's Desktop

persistent 3D kernel **465** has been downloaded. Upon automatic installation of the 3D Persistent Client kernel **465**, the user is given a demonstration of the 3D environment software and given the choice to activate a full three-dimensional computing environment on the user's desktop at client machine **460**. If the user **410** chooses not to activate the 3D computing environment, the 3D environment Persistent Client **465** nevertheless remains active in an unobtrusive two-dimensional persistent window on the user's desktop for the delivery of advertisement or messages to the user's desktop. As such, the present invention provides a persistent presence on the user's desktop for the placement of advertising, messages, or the gathering of information about the user for the benefit of the e-commerce engine **440** with which the present invention has been connected. Because the three-

Robinson, 10:36-49

Kernel: NOT the Game Application in Limitation 1[A]

receiving a request at said primary electronic device to initiate a locally executed game application that is accessible at said primary electronic device, from a user interfaced with said network;

Petitioner's Limitation 1[B] Analysis is Flawed

persistent 3D kernel 465 has been downloaded. Upon automatic installation of the 3D Persistent Client kernel 465, the user is given a demonstration of the 3D environment software and given the choice to activate a full three-dimensional computing environment on the user's desktop at client machine 460. If the user 410 chooses not to activate the 3D computing environment, the 3D environment Persistent Client 465 nevertheless remains active in an unobtrusive two-dimensional persistent window on the user's desktop for the delivery of advertisement or messages to the user's desktop. As such, the present invention provides a persistent presence on the user's desktop for the placement of advertising, messages, or the gathering of information about the user for the benefit of the e-commerce engine 440 with which the present invention has been connected. Because the three-

Robinson, 10:36-49

Petitioner's Limitation 1[B] Analysis: Flawed

initiating said game application at said primary electronic device;

**Petition points to
“demonstration of software”**

locally on the client machine. Ex-1008, 10:36-41 (“Upon automatic installation of the 3D Persistent Client kernel 465, the user is given a demonstration of the 3D environment software and given the choice to activate a full three-dimensional computing environment on the user's desktop at client machine 460.”).

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Demonstration of Software is NOT Software



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201. A POSITA would understand that Robinson’s “demonstration of the 3D environment software,” (*Id.*, 10:38-30), is no more than a typical marketing tool that aims to provide the user 410 with a clear understanding of the benefit of the 3D desktop. Essentially, this demonstration refers to multimedia or illustrative materials created with the purpose of showcasing and highlighting the key features, benefits, and uses of the 3D desktop. Upon viewing the demonstration, the user 410 may choose to activate the 3D desktop feature. Thus, the word “activate” here means a process of acquiring (possibly through further downloads) and installing the 3D environment software for turning the user’s 2D desktop into a 3D desktop.

Ex.2005, ¶201

Demo of Software OR Demo Software

Reply Confuses the TWO

But as Mr. Crane explains, demonstration software by 2002 would “frequently include many or all features of the paid version,” and the POSITA in 2002 would understand even partial demonstration software to teach a working version of a game application, including the ability to “initiate” the game application. (Ex. 1025, ¶41.)

Reply 28-29

Demo of Software OR Demo Software

persistent 3D kernel **465** has been downloaded. Upon automatic installation of the 3D Persistent Client kernel **465**, the user is given a demonstration of the 3D environment software and given the choice to activate a full three-dimensional computing environment on the user's desktop at client machine **460**. If the user **410** chooses not to activate the 3D computing environment, the 3D environment Persistent Client **465** nevertheless remains active in an unobtrusive two-dimensional persistent window on the user's desktop for the delivery of advertisement or messages to the user's desktop. As such, the present invention provides a persistent presence on the user's desktop for the placement of advertising, messages, or the gathering of information about the user for the benefit of the e-commerce engine **440** with which the present invention has been connected. Because the three-

Robinson, 10:36-49

Demo of Software OR Demo Software

Petitioner's Expert Agrees

Q. Okay. Is demonstration software a term of art?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: It is a term that was well known in the art as of 2002.

By MR. RAFATIJO:

Q. So if a POSITA hears this term he definitely understands what it is; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: Yes, he would.

Q. Okay. So a POSITA would understand demonstration of software to be different from demonstration software; correct?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: I think the two terms are different.

Q. Okay. Well, suppose you see an ad for a car and somebody is talking about the different features and capabilities of the car. Would that video demonstrate the features and capabilities of the car?

MR. BLUMENKOPF: Objection. Form.

THE WITNESS: I can imagine some scenarios where there is a video showing the demonstration of features of a car.

Demo of Software OR Demo Software

demonstration program or **demo program** *n.* **1.** A prototype that shows the on-screen look and sometimes the proposed capabilities of a program under development. *See also* prototyping. **2.** A scaled-down version of a proprietary program offered as a marketing tool.

Petitioner's Limitation 1[C] Analysis: Inconsistent

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

**Petition points to
Kernel's display of ads**

FIG. 9 of Robinson reproduced above “illustrates one example of a user desktop 910 with a Persistent Client Window 912” (*id.*, 14:19-20) of the client desktop environment 910 (e.g., the locally executed game application) using a window within the desktop window, where “[a]dvertisements, messages, pictures, video and other information or data” can be presented “within the Persistent Client Window 912 ...” (Ex-1008, 15:1-3).

Pet. 49-50

Robinson's 3D Computing Environ. is a 3D Desktop

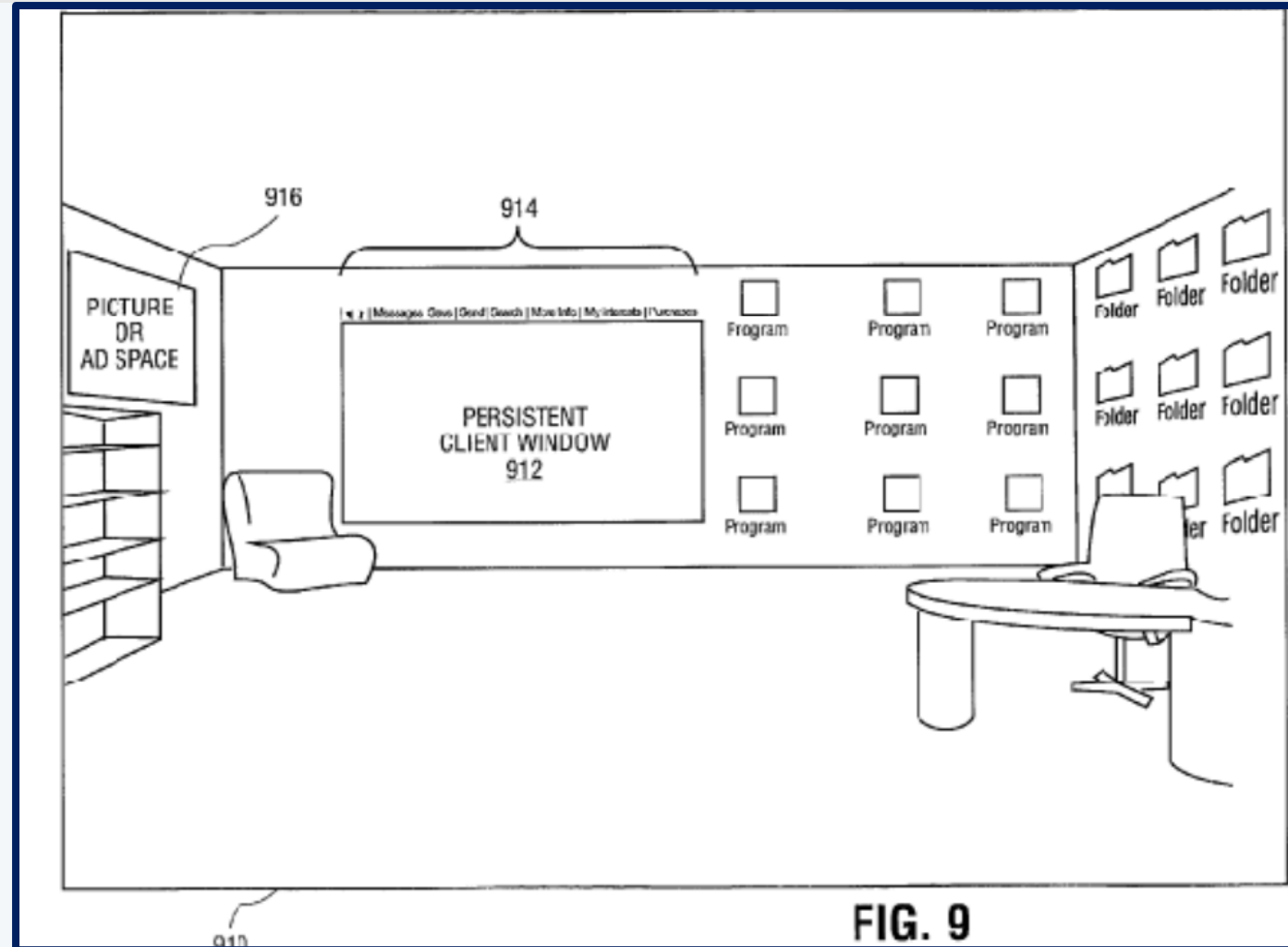


FIG. 9 is an example of a user desktop illustrating the presence of the Persistent Client Window.

Robinson, Fig. 9

Petitioner's Limitation 1[C] Analysis: Inconsistent

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

Reply changes positions

for online games; and its client kernel is installed on the user's desktop environment, assisting in the performance of such online games. (Petition, 47.)

This is consistent with the definition of game application described above: a program designed to assist in the performance of a game. (Ex. 1017, 31.)

Fig. 9 illustrates persistent client window 912 of the client kernel, assisting alongside other programs (*e.g.*, online games, in green) in supporting Robinson's

Ads on Kernel: Not Integrated into any Application

When the user opens an application program that overlaps and covers the display of the Persistent Client Window, the advertisement or message that is currently being displayed will remain in the Persistent Client Window until the user closes the application software and returns back to the desktop (or reduces the display of the application software so that the Persistent Client Window can be viewed).

Robinson, 13:11-18. Therefore, any displayed content in the Persistent Client Window is certainly *not* integrated into an executed application; it is either *partially blocked* or *completely obscured* by that application. Because advertisements are shown “as long as the Persistent Client Window can be fully viewed,” the displayed advertisements are not integrated into any application. Robinson, 13:24-25.

Dependent Claims

Claim 3: Petitioner's Shifting Theories

- 3. Claim 3: The method of claim 1 wherein said game application displays branded business-related content to said user.**

Angles teaches this limitation. *See* § VII.A.2.(e).

Accordingly, Angles discloses “said game application displays branded business-related content to said user.” Ex-1004, ¶¶126-129.

Pet. 28

- (e) 1[d]: automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and**

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Claim 3: Petitioner's Shifting Theories

- 3. Claim 3: The method of claim 1 wherein said game application displays branded business-related content to said user.**

Angles teaches this limitation. *See* § VII.A.2.(e).

Accordingly, Angles discloses “said game application displays branded business-related content to said user.” Ex-1004, ¶¶126-129.

Pet. 28

126. Angles disclosed, or at least rendered obvious to a POSITA, Claim 1 of the '028 Patent from which Claim 3 depends. For that reason alone Angles disclosed, or at least rendered obvious to a POSITA, Claim 3 of the '028 Patent.

Ex.1004, ¶126

Claim 3: Petitioner's Shifting Theories

The Response, as best understood, argues that Petitioner improperly relies on the same feature in Angles—customized advertisements 30—to meet both the “business-related content” limitation of element 1[c], and also the “branded business-related content” limitation of claim 3. (Response, 34-38.)

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Claim 3: Petitioner's Shifting Theories

3. The method of claim 1 wherein said game application displays branded business-related content to said user.

1[C]

automatically integrating business-related content from at least one of said web pages of said secondary electronic device into said locally executed game application during execution of said game application;

1[D]

automatically re-directing said user to one of said web pages of said secondary electronic device from said primary electronic device, said re-direction being integrated into said game application and said re-direction occurring as part of the user executing said game application; and

Claim 3: Different from Limitation 1[C]



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62. Therefore, a POSITA would recognize that this Claim imposes a limitation on the game application disclosed in Claim 1—the game application by and of itself must display “branded business-related content.” This is a feature of the game application alone—not merely a network capability allowing for integration of business-related content into the game.

Ex.2005, ¶62

Claim 3: Different from Limitation 1[C]

67. Based on my experience, an online game is a type of network-connected system. Advertising imbedded in games was well known in the 1990s through the prevalence of Advergames. An Advergame is a video game that advertises a brand-name product by featuring it as part of the game. In some cases the game featured a main character that figured into a company's marketing strategy, such as "Pepsiman," a 1999 video game "for PlayStation to promote the Pepsi brand. Players get to take control of the Japanese drinks (sic) mascot,

Claim 3: Different from Limitation 1[D]

Petitioner improperly conflates “display” with “re-direct,” implying that “re-directing” the user to websites outside the game to view advertisements equals “the game display[ing] branded business-related content.” This is incorrect in view of the ‘028 specification: “The sequence begins when the game is initiated (step 100). The player is exposed to company branding through player action during game play (step 102). Eventually, a game event re-directs the source of the content being displayed to the user to an external company web site (step 104).” Ex-1001, 4:59-64. Thus, the game application *necessarily* displays branded content to the user before the user is re-directed to external websites.

Claim 4: Updating Branded Content of Claim 3

4. The method of claim 3 wherein said branded business-related content is dynamically updated.

39-42.) Patent Owner argues that the branded business-related content must be “inherently part of the game,” not “integrated into the game.” (Response, 39-41.)

As best understood, Patent Owner’s position is that because the parent claim

recites business-related content that is “integrated,” claim 4’s business-related

content must *not* be integrated. (Response, 39.) But the POSITA would not

understand this to limit claim 4. (Ex. 1025, ¶43.) To the contrary, the

Reply 19

Claim 4: Updating Branded Content of Claim 3

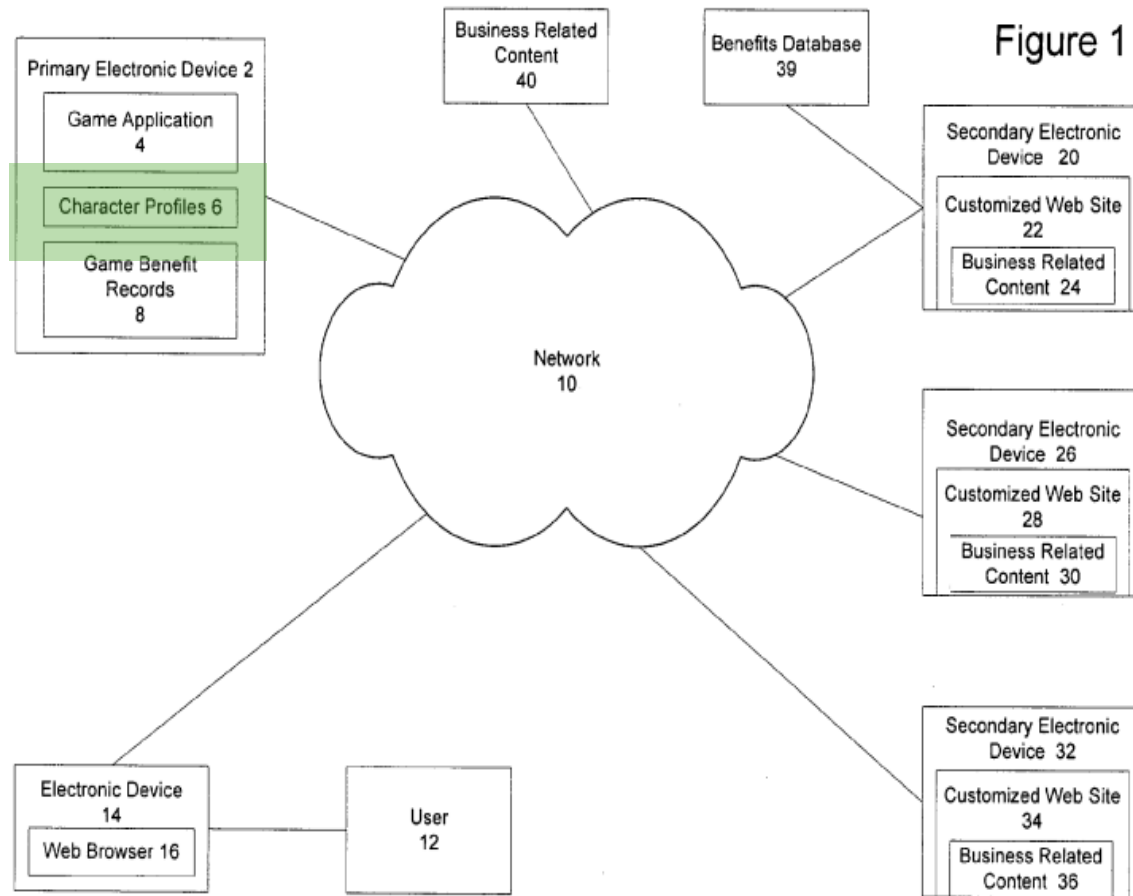
3. The method of claim 1 wherein said game application displays branded business-related content to said user.

4. The method of claim 3 wherein said branded business-related content is dynamically updated.

Claim 5: Angles Discloses No Player Profile

5. The method of claim 1, comprising the further steps of: executing game-related user actions in said game application as a result of user choices; and generating a player profile based on said user choices made during said game application; wherein the player profile is specific to said user.

Specification Defines Player Profile



illustrative embodiment of the present invention. A primary electronic device 2 holds a game application 4, character profiles 6, and is interfaced with the network 10. Character profiles 6 are records which track the game choices a player makes while playing the game application 4. The use of

Ex.1001, 3:39-41

Specification Defines Player Profile

illustrative embodiment of the present invention. A primary electronic device 2 holds a game application 4, character profiles 6, and is interfaced with the network 10. Character profiles 6 are records which track the game choices a player makes while playing the game application 4. The use of

Ex.1001, 3:39-41

In one aspect of the present invention, character profiles are developed which track the game decisions made by each player. Players log-in at the outset of game play using a player ID and password. The player is cross-indexed to a character profile which tracks the player's decisions during the course of the game. The character profiles may include non-identifying demographic data and may be exchanged with the business sponsors so that they can tailor content or product offerings in a manner appealing to the game participants. The profiles are tied to a character representing the player, not the actual individual playing the game.

Ex.1001, 5:54-64

Angles's Profiles: Completely Different

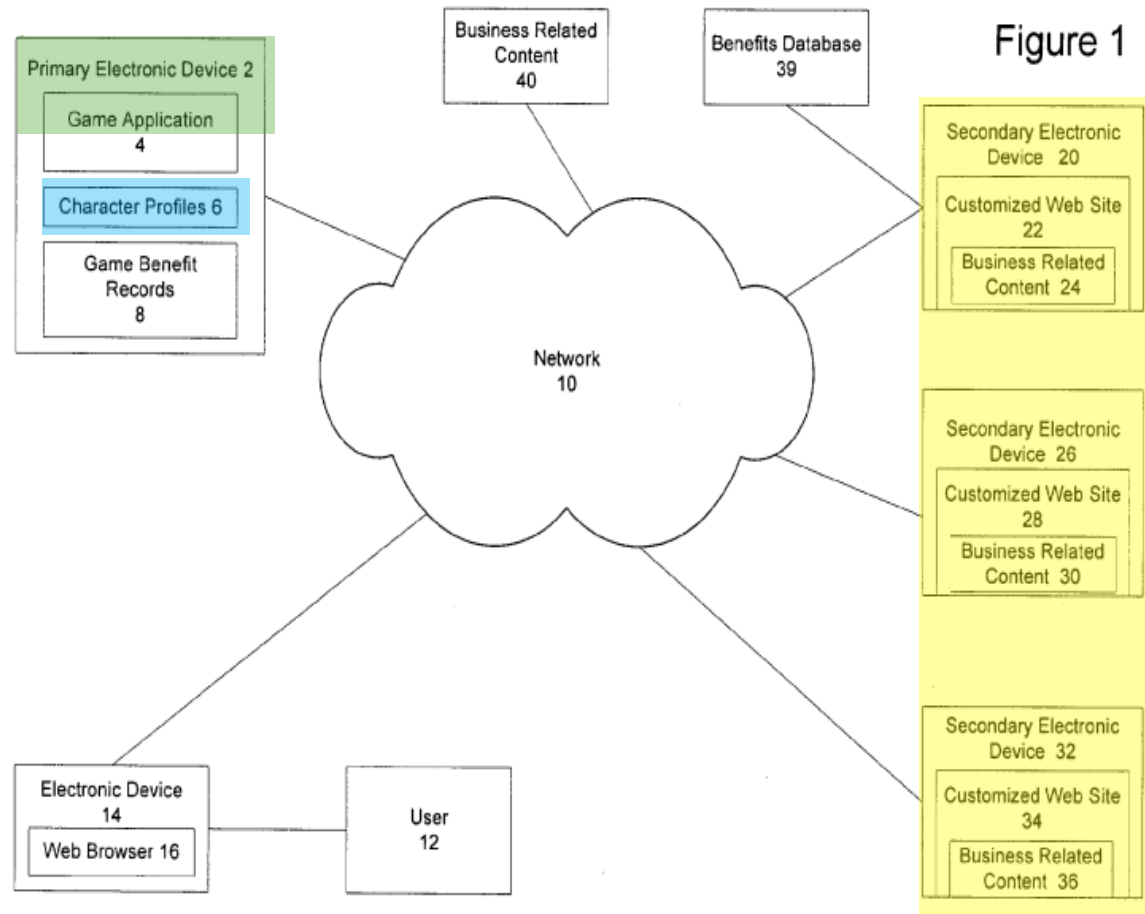
Further, Petitioner's first relied-upon "demographic" profile is created when a user "registers with the advertisement provider by entering pertinent demographic information into the advertisement provider's demographic database." Angles, 3:18-24. This profile fails to fulfill the requirements of limitation 5[b], because it is not generated *based on said user choices made during said game application*. Ex-2005, ¶172. Entering demographic information into an advertising database cannot possibly be described as a user choice made during a game application. The profile is generated via user's data entry actions that are *clearly outside of the game application*, and not *during the game application*, as the Claim requires: "Once the

POR 47-48

Claim 6: Player Profiles Disseminated

6. The method of claim 5 wherein said player profile is disseminated to providers of business-related content used in said game application.

Player Profiles Disseminated to Providers



illustrative embodiment of the present invention. A primary electronic device 2 holds a game application 4, character profiles 6, and is interfaced with the network 10. Character profiles 6 are records which track the game choices a player makes while playing the game application 4. The use of

Ex.1001, 3:39-41

video clips or answer quiz questions. The choices made by the player are tracked, collected in the character profiles, and exchanged with business sponsors. The sites relating to the

Ex.1001, 6:3-6

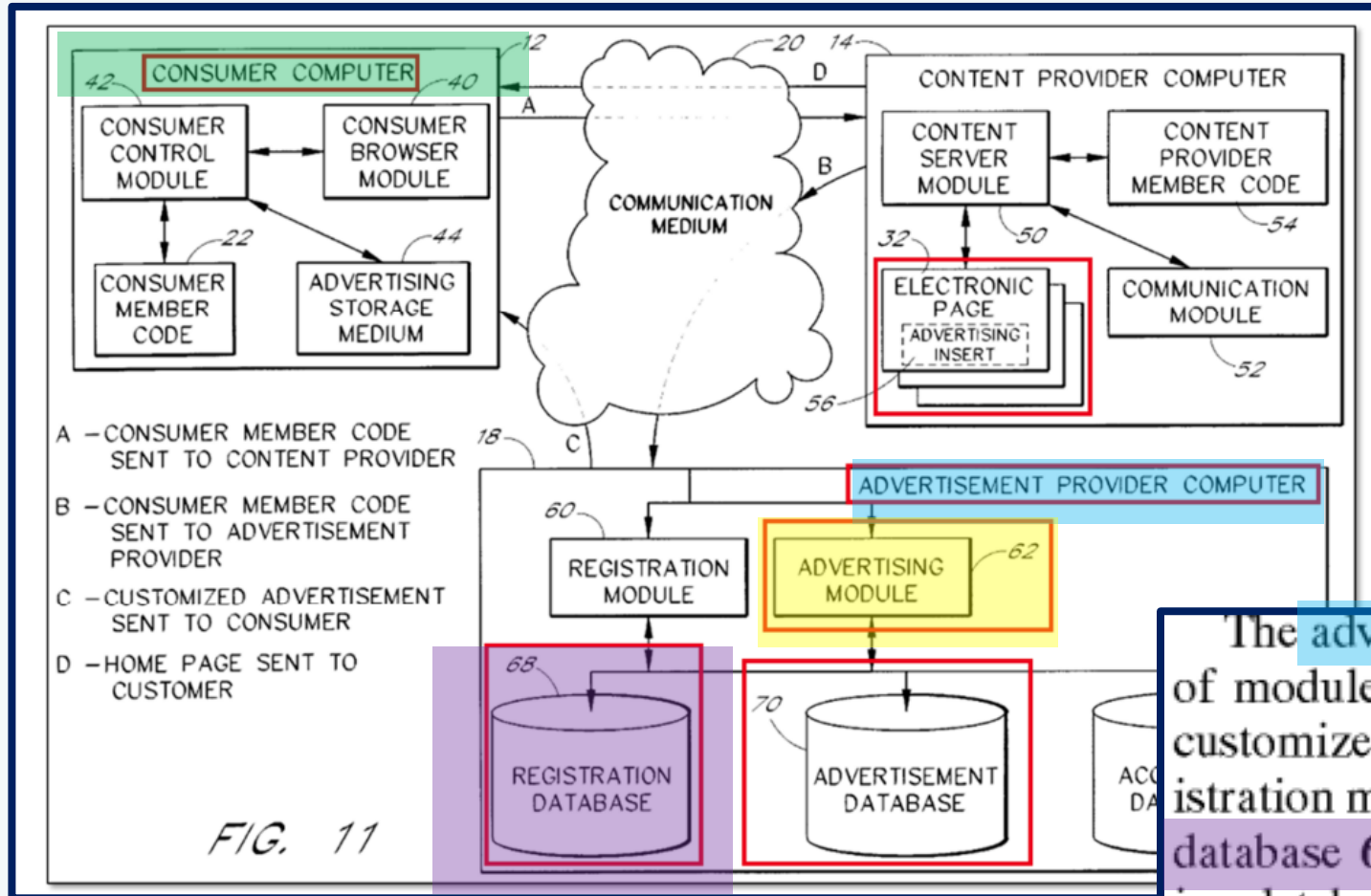
Angles's Profiles Stored on Advertiser's Computer

implementation of its “consumer profile.” *It is not disseminated anywhere*; rather, it is accessed by various modules—all of which are located in the advertisement provider computer:

The advertising module 62 uses the consumer member code 22 to obtain a *consumer profile* from the registration database 68. As discussed in more detail below, the advertising module 62 then uses the *consumer profile* to select an appropriate advertisement from the advertisement database 70. In another embodiment, the advertising module 62 uses both the *consumer profile* and the content provider information to select an appropriate advertisement from the advertisement database 70. *The advertising module 62 then sends a customized advertisement 30 directly to the consumer computer 12*

POR 49 (citing Angles, 15:21-31)

Angles's Profiles Stored on Advertiser's Computer



The advertisement provider computer 18 utilizes a variety of modules to store customer information and to generate customized advertisements 30. The modules include a registration module 60, an advertising module 62, a registration database 68, an advertisement database 70 and an accounting database 72. The registration module 60, as is discussed in more detail below, allows customers to register with the advertisement provider computer 18.

Angles/Robinson/Ginter

Ginter: A 322-Page-Long Patent

Petition uses Ginter for Claim 6

Ginter teaches or suggests that the “player profile is disseminated” in that it describes “electronic appliances [that] provide a distributed virtual distribution environment (VDE) that may enforce a secure chain of handling and control, for example, to control and/or meter or otherwise monitor use of electronically stored or **disseminated information,**” where such information includes “user profile.”
Ex-1009, **Abstract,** 36:10-43.

Ginter: A 322-Page-Long Patent

Reporting of *usage information and user requests* can be used for supporting electronic currency, billing, payment and credit related activities, and/or for *user profile analysis* and/or broader market survey analysis [...] and can be provided to content providers or other parties, through secure, authenticated encrypted communication to the VDE installation secure subsystems.

Ginter, 36:28-38. This passage makes it clear that merely the *analysis of a user profile* is being sent to content providers—not the *profile* itself. Thus, Ginter does not disclose the dissemination of a profile. Ex-2005, ¶¶249-251.

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2024, I caused a true and correct copy of the foregoing Patent Owner's Demonstratives to be served via electronic mail to Sony-Quantum-IPR@mofo.com upon the following attorneys of record for the Petitioner:

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