

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ADOBE INC.,

Petitioner

v.

PETER HENRIK PEDERSEN,

Patent Owner

Case IPR2023-00986

U.S. Patent No. 6,965,920

Petition for *Inter Partes* Review of

U.S. Patent No. 6,965,920

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PETITIONER’S EXHIBIT LIST

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1001	U.S. Patent No. 6,965,920 to Peter Henrik Pedersen (“’920 patent”)
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1003	File History of U.S. Patent Application 09/904,270 that issued as the ’920 Patent
1004	U.S. Patent No. 6,741,992 to McFadden (“McFadden”)
1005	U.S. Patent No. 6,633,630 to Owens et al. (“Owens”)
1006	<i>Pedersen v. Adobe Inc.</i> , No. 6:22-cv-00583-ADA, Dkt. 6 (W.D. Tex., Jun. 15, 2022)
1007	<i>Pedersen v. Mailgun Technologies, Inc.</i> , No. 6:21-cv-01153-ADA, Dkt. 23 (W.D. Tex., Sep. 12, 2022)
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1011	Statistics from DocketNavigator showing active cases before Judge Albright of the U.S. District Court for the Western District of Texas (as of May 29, 2023)
1012	Curriculum Vitae of Dr. Philip Greenspun
1013	Malone et al., <i>Semi-Structured Messages are Surprisingly Useful for Computer-Supported Coordination</i> (1986)
1014	Kreistle, <i>Teach Yourself Lotus Notes 4</i> (1996)
1015	Londergan & Freeland, <i>Lotus Notes R5 For Dummies</i> (1999)
1016	Boone, <i>Concept Features in Re:Agent, an Intelligent Email Agent</i> (1998)
1017	Terry, <i>A Tour Through Tapestry</i> (1993)
1018	Liscano et. al., <i>A System for the Seamless Integration of Personal Messages using Agents Developed on a Lotus Notes Platform</i> (1996)
1019	U.S. Patent No. 5,937,161 to Mulligan et al. (“Mulligan”)
1020	Article titled “On the Net: Filtering the Email Storm” (1998)

LISTING OF CLAIMS

Claim Element	Claim Language
1[pre]	An electronic message management system comprising:
1[a]	an electronic computer system in operative communication with a global digital communications network, and
1[b]	an electronic message management database in operative communication with the computer system; the electronic computer system having
1[c]	a recipient profile application for receiving recipient profile data from recipients via the global network and storing the recipient data in the database,
1[d]	the profile data including delivery parameters specified by a recipient of where, when and how specific types of messages from specific messengers are delivered to the recipient,
1[e]	a messenger profile application for receiving messenger profile data from messengers via the global network and storing the messenger data in the database, including messenger identifying data,
1[f]	a message input application for receiving message files from a messenger via the global network and storing the message files in the database, and
1[g]	an individual message generator in communication with the database and operative to access and utilize data and files from the database to generate an individual message to be sent to the recipient specified by the messenger via the global communications network according to the delivery parameters, and
1[h]	a message management server operating system; and
1[i]	the message management database including recipient and messenger profile databases for storing recipient and messenger profile data respectively, and a message database for storing message data files.
2	The electronic message management system of claim 1, wherein the recipient profile application includes a global network interactive recipient profile input form, the recipient profile input form being accessible to a recipient computer via the global digital communications network.
3	The electronic message management system of claim 1, wherein the messenger profile application includes a global network interactive

Claim Element	Claim Language
	messenger profile input form, the messenger profile input form being accessible to a messenger computer via the global digital communications network.
4	The electronic message management system of claim 1, wherein the message input application includes an interactive global network message input form, the message input form being accessible to a messenger computer via the global communications network.
5	The electronic message management system of claim 1, wherein the recipient profile application further comprises a network interface and a recipient profile editor for receiving recipient profile data from a recipient computer via the global network interface and for manipulating the recipient profile database to store the recipient profile data.
6	The electronic message management system of claim 1, wherein the messenger profile application further comprises a global network interface and a messenger profile editor for receiving messenger profile data from a messenger computer via the global network interface and for manipulating the messenger profile database to store the messenger profile data.
7	The electronic message management system of claim 1, wherein the message input application further comprises a global network interface and a message data file editor for receiving a message file data from a messenger computer via the global network interface and for manipulating the message database to store the message data file.
8[pre]	A method of inputting data into the message management system of claim 1 from client computers via a global communications network, to centrally manage the distribution and delivery format of electronic messages from multiple messenger sources to multiple individual recipients, comprising the steps of:
8[a]	providing the client computers with access to the message management system via a global communications network, where the client computers are messenger and recipient computers;
8[b]	receiving a connectivity request from a client computer for access to the message management system to input data;
8[c]	connecting the client computer to the message management system via the global communication network;

Claim Element	Claim Language
8[d]	prompting the client computer for the data to be input by providing a data input form to the client computer; and
8[e]	accepting input data from the client computer and entering the input data into an electronic message management database of the message management system.
9	The method of claim 8, wherein the prompting step includes providing an input form to the client computer.
10	The method of claim 8, wherein the prompting step includes providing an input form to the client computer, the input form being at least one input form selected from the group consisting of a recipient profile form, a messenger profile form, and a message input form.
11	The method of claim 8, wherein the accepting step includes entering the input data into an electronic message management database comprising a recipient profile database, a messenger profile database, and a message database.
14	The electronic message management system of claim 1, wherein the individual message generator communicates with the database to identify messages and messenger parameters that are compatible with a recipient profile, and to configure the messages for delivery to the recipient.
15	The electronic message management system of claim 1, wherein the individual message generator generates and sends the individual message via a means selected from the group consisting of; electronic mail, voice telephone, facsimile transmission, and digital transmission.
16	The electronic message management system of claim 1, wherein the individual message generator generates the individual message and sends the individual message via a means selected from the group consisting of an electronic means and a hardcopy means.
17	The electronic message generator system of claim 16, wherein the individual message generator generates the individual message and sends the individual message via an electronic means selected from the group consisting of electronic mail, voice telephone, facsimile transmission, digital transmission, computer network, voice mail, SMS, telex, and wireless transmission.

Claim Element	Claim Language
18	The electronic message generator system of claim 16, wherein the individual message generator generates the individual message and sends the individual message via a hardcopy means selected from the group consisting of paper media, magnetic media, and optical media.

I. INTRODUCTION

Petitioner Adobe Inc. (“Petitioner”) requests *inter partes* review of claims 1-11 and 14-18 (“challenged claims”) of U.S. Patent No. 6,965,920 (“the ’920 patent”).

II. GROUNDS FOR STANDING (37 C.F.R. §42.104(a))

Petitioner certifies that the ’920 patent is available for *inter partes* review (“IPR”) and Petitioner is not barred or estopped from requesting IPR to challenge the claims on the grounds herein. Petitioner files this Petition within one year of service of Patent Owner’s complaint against Petitioner. *See* EX1006.

III. STATEMENT OF PRECISE RELIEF REQUESTED FOR EACH CLAIM CHALLENGED, INCLUDING CLAIMS AND STATUTORY GROUNDS (37 C.F.R. §42.104(b)(1)-(2))

Petitioner respectfully requests review and cancellation under 35 U.S.C. §311 of the challenged claims in view of:

Prior Art
U.S. Patent No. 6,741,992 (“ <i>McFadden</i> ”), filed Jul. 29, 1999 and issued May 25, 2004; prior art under 35 U.S.C. §102(e) (Exhibit 1004)
U.S. Patent No. 6,633,630 (“ <i>Owens</i> ”), filed Sep. 12, 1998 and issued Oct. 14, 2003; prior art under 35 U.S.C. §102(e) (Exhibit 1005)

Ground	Claims	Basis
1	1-11, 14-18	35 U.S.C. §103 based on <i>McFadden</i>
2	1-11, 14-18	35 U.S.C. §103 based on <i>McFadden</i> in view of <i>Owens</i>

IV. OVERVIEW OF THE '920 PATENT

The '920 patent discloses a “system and method for the central specification and management of how messages are distributed to recipients.” EX1001, Abstract. According to the '920 patent, there is a problem in the art with “inefficient mass communication means, such as spam e-mail, and household delivered promotion materials (‘junk mail’).” *Id.*, 1:58-62. Even when these methods result in the delivery of relevant information, it may be “at the wrong time or in the wrong place.” *Id.*, 1:64-2:1.

The '920 patent claims to disclose an advancement over the prior art in allowing recipients and messengers to define profiles having rules to manage messages. *Id.*, 2:26-42. To implement this system, the '920 patent discloses a Message Management server 50:

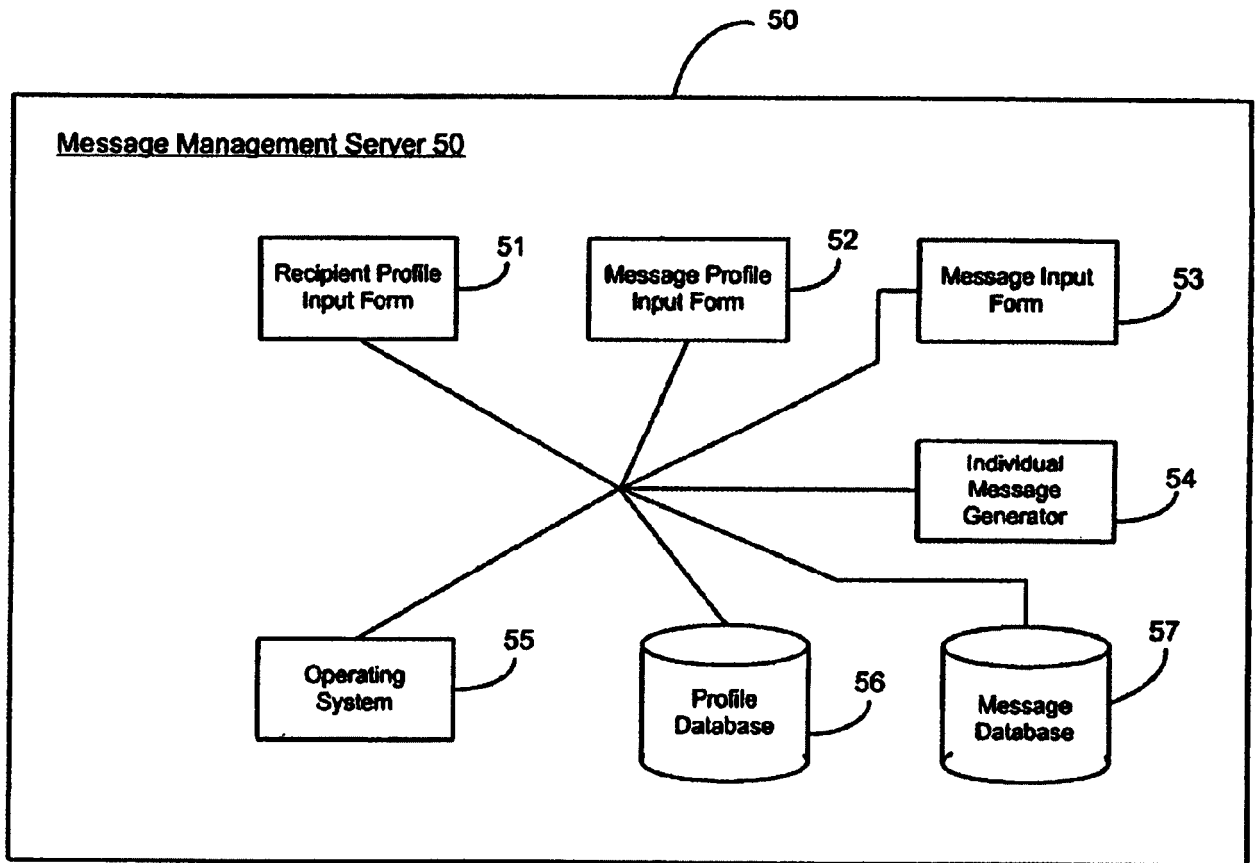


Fig. 2

Id., Fig. 2

As shown in Figure 2, the server is composed of “a recipient profile software application which includes a recipient profile input form 51” (*Id.*, 6:32-34), “a messenger profile software application, which includes a messenger profile input form 52” (*Id.*, 6:42-44), “a message input software application, which includes a message input form 53” (*Id.*, 6:53-55), an “operating system software 55” (*Id.*, 7:1-

4), an “individual message generator 54” (*Id.*, 6:63-67), and “profile 56 and message 57 databases” (*Id.*). The “recipient profile input form 51” receives data input through the recipient’s computer system to be stored in the profile database 56. *Id.*, 6:32-41. The “messenger profile input form 52” similarly receives data input through the messenger’s computer system, which is also stored in the profile database 56. *Id.*, 6:42:51. The “message input form 53” also receives data input through the messenger’s computer system, but stores the information in the message database 57. *Id.*, 6:53-62. The individual message generator 54 then “generates an individual messages [*sic*] for each recipient, based on the combination of recipient and messenger profile parameters and messages entered.” *Id.*, 6:63-67.

The ’920 patent discloses different delivery parameters for individual messages. For example, the ’920 patent discloses that a recipient may specify “how messages must be distributed, where to receive the specified message and the type of message devices to transmit the messages.” *Id.*, 7:65-8:3. Messages may also be configured to send “[a]t the appropriate time.” *Id.*, 8:53-58. A recipient may also “specify[] one or more messengers” and enter “data about how messages must be distributed.” *Id.*, 7:60-8:3.

V. OVERVIEW OF THE PRIOR ART REFERENCES

A. *McFadden*

U.S. Patent 6,741,992 (“McFadden”) discloses a “[f]lexible rule-based information system” that allows originators and recipients “to control and influence the flow of and access to information.” EX1004, Abstract.

Figure 1 of *McFadden* shows the structure of the system and its interaction with users:

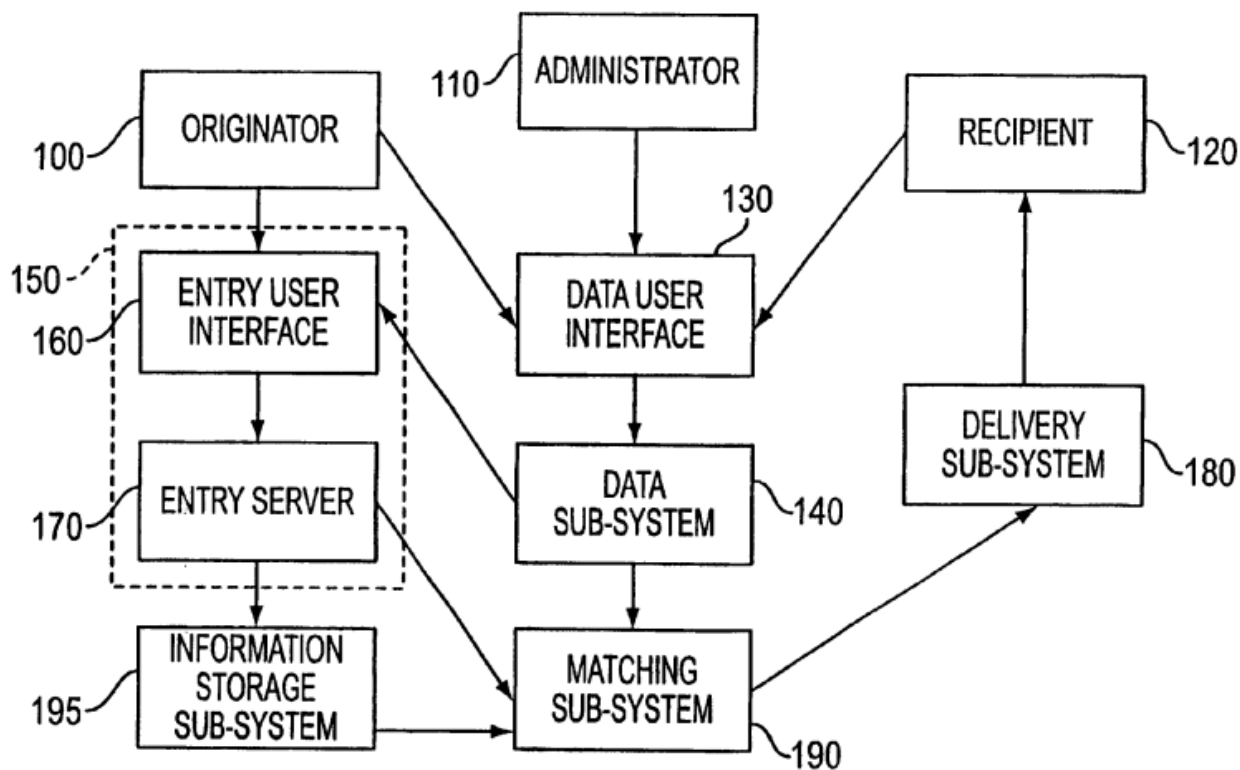


FIG. 1

Id., Fig. 1.

Figure 1 shows users (including originator 100 and recipient 120) that interact with the system through the entry user interface 160 and the data user interface 130. *Id.*, 4:2-7. The data user interface receives “profile rules” and “profile data” from recipients and messengers. *Id.*, 6:33-35, 6:66-7:1. The entry user interface receives “message[s]” and “message rules” from messengers. *Id.*, 6:5-9, 6:28-29. Data received through the data user interface 130 is stored in a data sub-system 140 operable to store profile data and rule data. *Id.*, 4:66-5:3, Fig. 1. Data received through the entry user interface 160 is stored in an information storage sub-system 195 operable to store message data and message rules data. *Id.*, 5:44-49, Fig. 1.

Rules in the McFadden system consist of “one or more Boolean conditions” and actions which the user selects to be performed depending on whether the condition evaluates to true. *Id.*, 6:43-45, 6:56-59.

The matching sub-system utilizes the rules from the data sub-system and information storage sub-system to match the stored message with recipients to generate individual messages to selected recipients. *Id.*, 5:58-61, 10:56-61. The rules include message rules and profile rules “for properly routing the message.” *Id.*, 10:53-61. The rules are also used to refine a “list of recipients” for the message. *Id.*, 7:7:49-56. The matching sub-system then passes the message to the delivery sub-system 180 to transmit the message. *Id.*, 7:42-44, 7:57-67.

B. Owens

U.S. 6,633,630 (“Owens”) discloses enabling senders and receivers to manage communications via “filter and forward options.” EX1005, Abstract. These filter and forward options are stored in a rules database and “define a set of rules to be applied to inbound and outbound messages so that messages are sent and received in accordance with the preferences of the senders and receivers.” *Id.*, 15:43-49, Abstract.

A message sender first “composes the message on the computer 20, supplies an identifier for the message receiver (such as a member number), and sends the message.” *Id.*, 7:22-24. The message then arrives at the identified receiver’s mailbox, where filter and forward options are applied. *Id.*, 6:6-9.

Figure 8 of Owens discloses certain filter and forward options for an inbound email message:

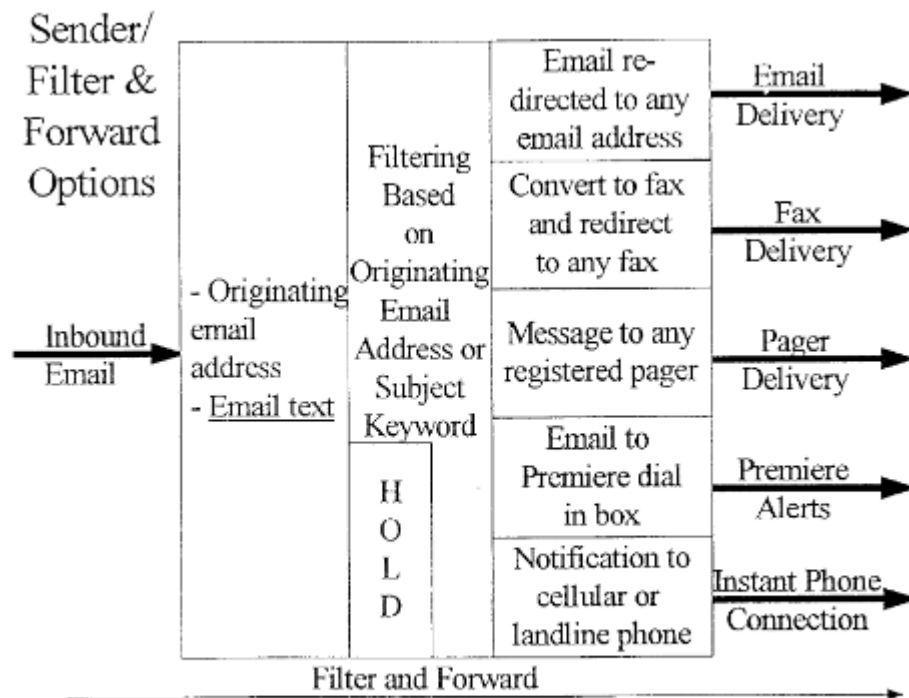


Figure 8

Id., Fig. 8.

As shown, filter options may filter “Based on Originating Email Address.” The forward options may forward the message to an address and in a medium specified by the user. *Id.*, 12:9-12, 12:18-20, Fig. 8. Options may also govern the time of transmission, including by specifying that the receiver should be “notified immediately of an inbound message” or that the message should be “stored... for later retrieval.” *Id.*, 10:24-31.

VI. LEVEL OF ORDINARY SKILL IN THE ART

As Dr. Greenspun explains, a POSITA as of the earliest claimed priority date

for the '920 patent would have had (1) a bachelor's degree in computer science (or a related field), or equivalent work experience, and (2) at least two years of work experience building groupware and messaging systems. More education can supplement practical experience and vice versa. EX1002, ¶¶47-48.

VII. CLAIM CONSTRUCTION (37 C.F.R. §42.104(b)(3))

The Petition “need only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy.’” *Micron Tech., Inc. v. Unification Techs. LLC*, IPR2021-00343, Paper 9, 11 (PTAB July 9, 2021). In *Pedersen v. Mailgun Technologies, Inc.*, No. 6:21-CV-01153 (W.D. Tex.), Patent Owner asserted that the terms of the challenged claims should be given their “plain and ordinary meaning.” EX1007, 4, 5, 7. The court concurred. EX1008. For the issues presented here, this Petition interprets the claim terms consistent with their plain and ordinary meaning as understood by a POSITA.¹ See 37 C.F.R. §42.100(b); *Phillips*

¹ Petitioner reserve all rights to raise claim construction arguments and other arguments in a litigation concerning the '920 patent. Petitioner expressly reserves the right to challenge in district court litigation one or more claims of the '920 Patent

v. AWH Corp., 415 F.3d 1303, 1312-13 (Fed. Cir. 2005) (en banc); EX1002, ¶56.

VIII. DETAILED EXPLANATION OF GROUNDS

A. *Ground 1: McFadden Renders Claims 1-11 and 14-18 Obvious*

1. Claim 1

a. 1[pre]: An electronic message management system comprising:

To the extent the preamble is limiting, McFadden discloses or renders obvious limitation 1[pre]. EX1002, ¶¶64-65. McFadden discloses “a system for information processing, delivery, and access with applications to information in electronic format.” EX1004, 1:21-32. McFadden further discloses that it is concerned particularly with messages. For example, McFadden discloses that “objects of the present invention are achieved by a method and system for distributing information between an originator and at least one end-user.” *Id.*, 2:7-10. And McFadden discloses that it is a system for managing messages. *Id.*, Abstract (“The originators generate messages... then optionally specify rules indicating the type of recipients they would like to reach”).

for failure to satisfy the requirements of 35 U.S.C. §112, which cannot be raised in these proceedings per 35 U.S.C. §311(b).

b. 1[a]: an electronic computer system in operative communication with a global digital communications network, and

McFadden discloses or renders obvious limitation 1[a]. EX1002, ¶¶66-68.

Figure 1 of McFadden illustrates the structure of an electronic computer system. *Id.*, Fig. 1, 3:66-4:25. This system is composed of “data storage” and “sub-systems” such as “entry 150, data 140, information storage 195, matching 190, [and] delivery 180.” *Id.*, 3:56-65. These sub-systems interact with users, such as originators and recipients, through a “computer user interface.” *Id.*, 4:14-19. A POSITA would understand from these disclosures that the system disclosed in McFadden is an electronic computer system. EX1002, ¶66.

The electronic computer system of McFadden and its sub-systems operatively communicate via an interface using “Internet- and network-accessible client components operating in a web-browser.” EX1004, 4:14-27; EX1002, ¶67. These client components communicate with server components “using secure and non-secure Internet, network, and distributed object protocols.” EX1004, 4:25-29. As Dr. Greenspun explains, a POSITA would understand that “Internet” represents a “global digital communications network.” EX1002, ¶67.

- c. **1[b]: an electronic message management database in operative communication with the computer system; the electronic computer system having**

McFadden discloses or renders obvious limitation 1[b]. EX1002, ¶¶69-72.

Figure 1 of McFadden illustrates an electronic message management database in operative communication with the computer system:

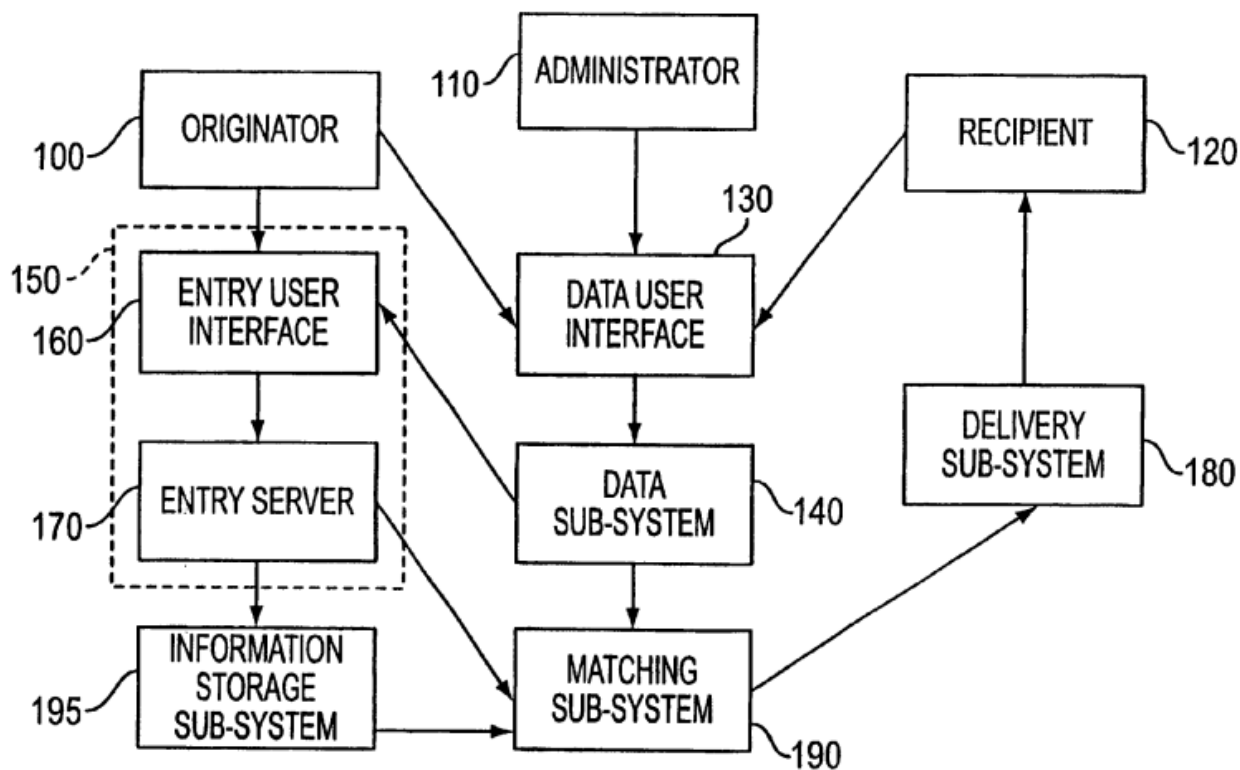


FIG. 1

EX1004, Fig. 1.

The information storage sub-system 195 and data sub-system 140 in combination

represent the claimed “electronic message management database.” EX1002, ¶69. Figure 1 shows directional arrows to and from sub-system 195 and sub-system 140 illustrating the operative communication with the computer system. *Id.*; EX1004, Fig. 1. For example, sub-system 195 and/or sub-system 140 communicate with user interfaces 130 and 160, the entry server 170, and the matching sub-system 190, which matches messages with intended recipients. EX1004, Fig. 1, 7:52-55, 10:53-58; EX1002, ¶69.

Sub-systems 195 and 140 together represent the claimed “electronic message management database” because these sub-systems store the message management data as understood by a POSITA. EX1002, ¶70. In particular, the originator of the message may employ “message rules to reflect the originator’s target audience.” EX1004, 10:44-48, 11:51-54. Message rules are stored in database 420 of sub-system 195. *Id.*, Fig. 4. Further, sub-system 140 stores the “profile rules” in a database in order to “further refine” the recipients for the message. *Id.*, 5:33-34, 7:52-55, Figs 1, 3. To match a message to a recipient, Figure 1 illustrates communication between the matching sub-system 190 and both the information storage sub-system 195 (to obtain message rules) and the data sub-system 140 (to obtain profile rules). *Id.*, 5:33-34, 7:52-55, 10:53-58, Figs 1, 3, 4; EX1002, ¶70. Accordingly, the information storage sub-system 195 and data sub-system 140

together store message management information and constitute the claimed “electronic message management database.” EX1002, ¶70.

Alternatively, it would have been obvious to organize the sub-system 195 and sub-system 140 as a single sub-system representing the electronic message management database. EX1002, ¶71. McFadden explains that “[a]ny or all of the sub-systems could be combined without changing the nature of functioning or the system.” EX1004, 12:13-15. This is consistent with the understanding of a POSITA, who would understand that the organization of data between different databases, and different parts of the same database, are routine design choices which would not affect the functionality of the system. EX1002, ¶71. Furthermore, a POSITA would be motivated to combine data storage sub-systems to reduce the complexity of the system and increase the efficiency of database access. *Id.*

- d. 1[c]: the electronic computer system having... a recipient profile application for receiving recipient profile data from recipients via the global network and storing the recipient data in the database,**

McFadden discloses or renders obvious limitation 1[c]. EX1002, ¶¶73-79.

McFadden discloses the claimed recipient profile application by describing a “data user interface 130” operating in the recipient’s web-browser. EX1004, 6:33-37, 4:21-25; EX1002, ¶74. McFadden explains that recipients may enter profile data

(including profile rules) via interface 130. EX1004, 10:27-34 (recipients “may enter profile data into the system using data user interface 130”), 6:33-37 (“[R]ecipients 120 ... may enter profile rules,” where “[e]ntry of profile rules data occurs via a data user interface.”), Fig. 1 (arrow from recipient 120 to data user interface 130). Thus, in McFadden, the recipient profile application (data user interface in a web-browser) receives recipient profile data from recipients. EX1002, ¶74. And a POSITA would understand this to be a “recipient” profile application because data user interface 130 executes in the recipient’s web-browser. *Id.*

In addition, McFadden describes the “data user interface 130” as consisting of a recipient-specific “rule construction form.” EX1004, 6:33-43. This further discloses a profile application specific to the recipient. EX1002, ¶75. The recipient-specific form is generated based on the recipient’s selection of profile topics. *Id.* In particular, when a user enters profile data via the user interface, the user will select topics from a set of “profile-specific topics.” *Id.*, 6:35-38. The form presented to the user “will depend on the topics selected” because the selected topics are “used to create the rule construction form.” *Id.*, 6:38-42. Thus, a POSITA would understand that the form presented is specific to the recipient based on the recipient’s prior selections. EX1002, ¶75. Using the recipient-specific form, the user may enter “one or more Boolean conditions” consisting of operands and references. EX1004,

6:42-54. Thus, in McFadden, the recipient profile application (interface 130 with recipient's rule construction form) receives recipient profile data (profile rules data comprising Boolean conditions) from recipients. EX1002, ¶75.

McFadden further explains that the data user interface “comprises client and server components” with “Internet- and network-accessible client components” operating in, for example, “a web-browser.” EX1004, 4:21-25. These client and server components “interact using secure and non-secure Internet... protocols.” *Id.*, 4:25-27. As Dr. Greenspun explains, a POSITA would understand that the data user interface receives profile data from a recipient at the client component of the data user interface, including through a web-browser accessing the Internet. EX1002, ¶76. Thus, in McFadden, the recipient profile data is received from recipients via the global network (the Internet). *Id.*

McFadden also discloses storing the recipient profile data received from the user interface in a database. EX1004, Fig. 1, 3; EX1002, ¶77. McFadden illustrates the relationship between the recipient, the data user interface, and the data subsystem in Figure 1:

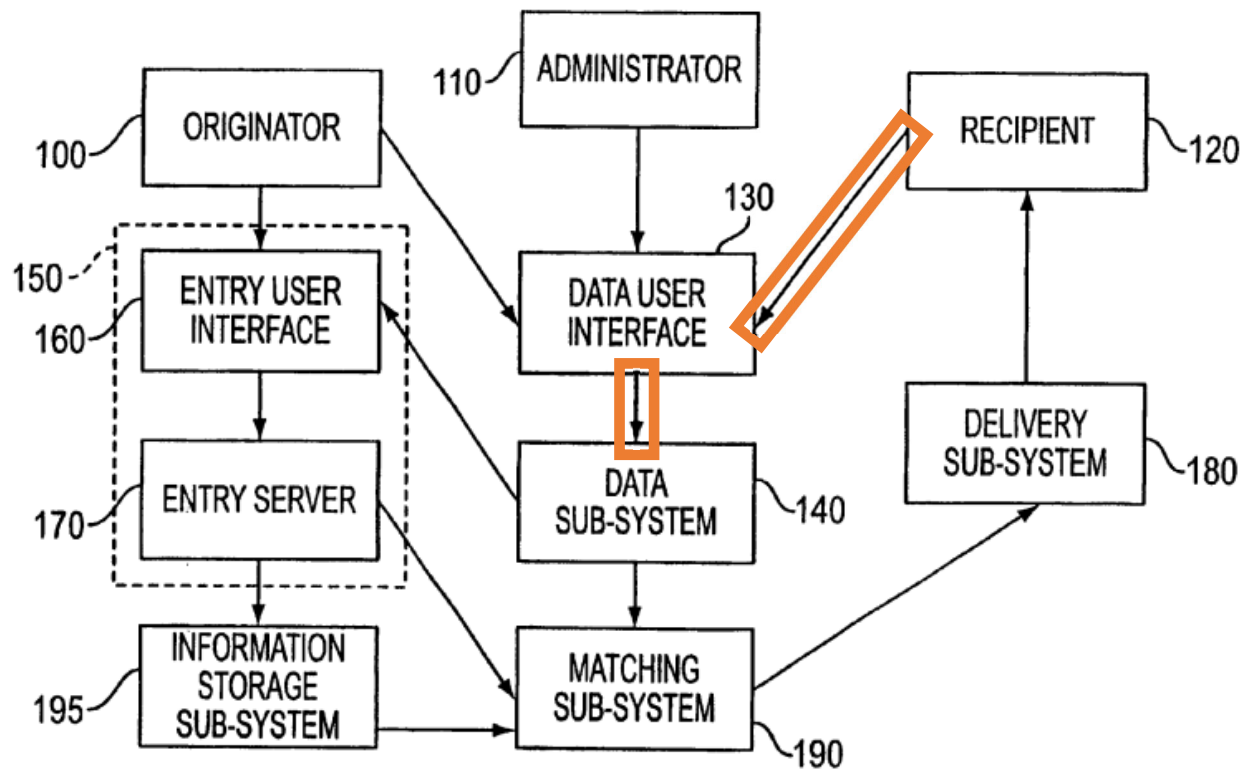


FIG. 1

EX1004, Fig. 1 (annotated).

Figure 1 shows via directional arrows that the recipient 120 sends profile data to the data user interface 130, and the data user interface sends the data to the data sub-system 140. *Id.*; EX1002, ¶77. McFadden explains that the operation of the data sub-system “involves storage and indexed retrieval of data.” EX1004, 8:36-38. Furthermore, Figure 3 of McFadden shows that the data sub-system includes a profile database 310 and rule database 330 for storing profile data and associated profile rules:

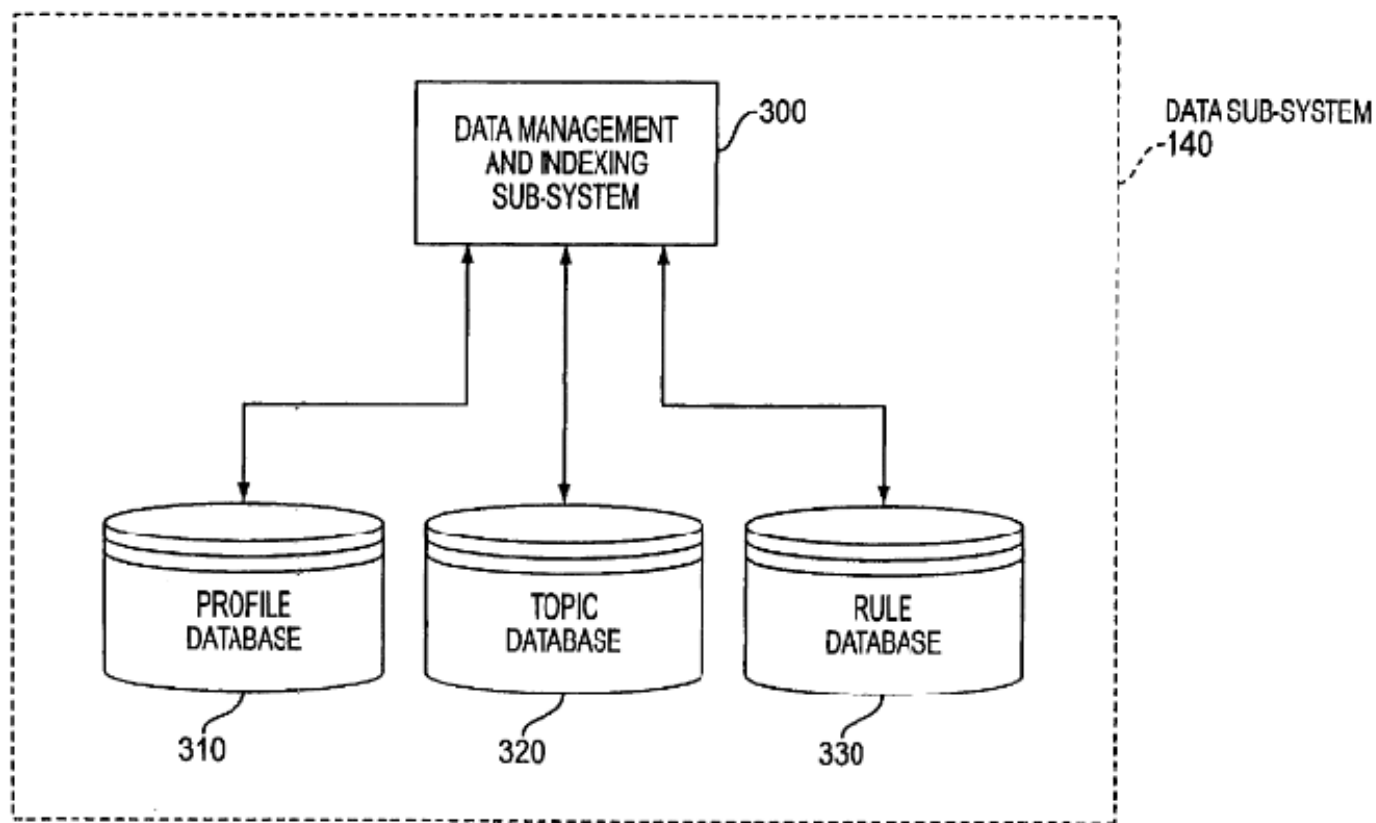


FIG. 3

Id., Fig. 3.

As Dr. Greenspun explains, a POSITA would understand that profile data and associated profile rules sent from the data user interface to the data sub-system 140, as shown in Figure 1, is stored in the databases of data sub-system 140 of Figure 3. EX1004, Fig. 1, 3, 5:31-35, 10:53-61 (“rules for identifying the interested recipients are retrieved from rule database 330”); EX1002, ¶78. Data sub-system 140 makes up a part of the electronic message management database (collectively, data sub-

system 140 and information storage sub-system 195), and thus, the recipient profile rules are stored in the claimed electronic message management database. EX1002, ¶78.

- e. **1[d]: the profile data including delivery parameters specified by a recipient of where, when and how specific types of messages from specific messengers are delivered to the recipient,**

McFadden discloses or renders obvious limitation 1[d]. EX1002, ¶¶80-84.

McFadden discloses that “recipients 120 ... may enter profile rules.” EX1004, 6:33-36. Profile rules are “used to route a message to a proper recipient.” *Id.*, 10:29-31, 10:55-62. The profile rules determine where to send the message (*id.*, 7:61-62 (“Messages may be transmitted via e-mail, fax, postal mail.”)), how to send the message (*id.*, 7:57-66 (“This information will be used to determine how to transmit the message to its recipient 120”; messages may be sent to “a specific file or other devices.”)) and when to send the message to a recipient (*id.*, 7:61-66 (transmitted immediately or logged “for later retrieval”)). EX1002, ¶81. A POSITA would understand that the McFadden profile rules represent delivery parameters on when, how, and where messages are to be delivered to the recipient. EX1002, ¶81.

McFadden discloses that recipient profile rules data may apply to both specific types of messages and specific messengers. EX1002, ¶82. A user “has a set of

‘Profile Rules’ indicating what types of posts, and from whom, he would like to receive.” EX1004, 11:59-60 (emphasis added). As an example, McFadden discloses a recipient may set rules to receive or not receive “posts requesting legal information from medical professionals with[] advanced degrees.” *Id.*, 11:60-67. A POSITA would understand “posts requesting legal information” as a specific type of message which a recipient may choose to receive, and “medical professionals with[] advanced degrees” as specific messengers which a recipient may choose to receive messages from. EX1002, ¶82.

In addition, a POSITA would understand that McFadden discloses a rule construction form that allows the recipient to create “Profile Rules” specifying “from whom[] he would like to receive” messages. *Id.*, 11:59-60; EX1002, ¶83. In particular, McFadden provides a “rule construction procedure [that] allows a user to specify one or more Boolean conditions.” EX1004, 6:43-45. A Boolean condition can employ any “operands for character and numeric data” along with “contains,” “starts with,” or “ends with.” *Id.*, 6:50-55. It would be obvious to a POSITA to create a profile rule by using a Boolean condition having the messenger’s name or email address along with “contains.” EX1002, ¶83. Additionally, a POSITA would understand that filtering on the basis of a specific messenger was a conventional feature of commercially available email in the early 2000s. *Id.* Accordingly, a

POSITA would understand that McFadden discloses or renders obvious profile rules that may include delivery parameters on specific messengers. *Id.*

- f. **1[e]: the electronic computer system having... a messenger profile application for receiving messenger profile data from messengers via the global network and storing the messenger data in the database, including messenger identifying data,**

McFadden discloses or renders obvious limitation 1[e]. EX1002, ¶¶ 85-92.

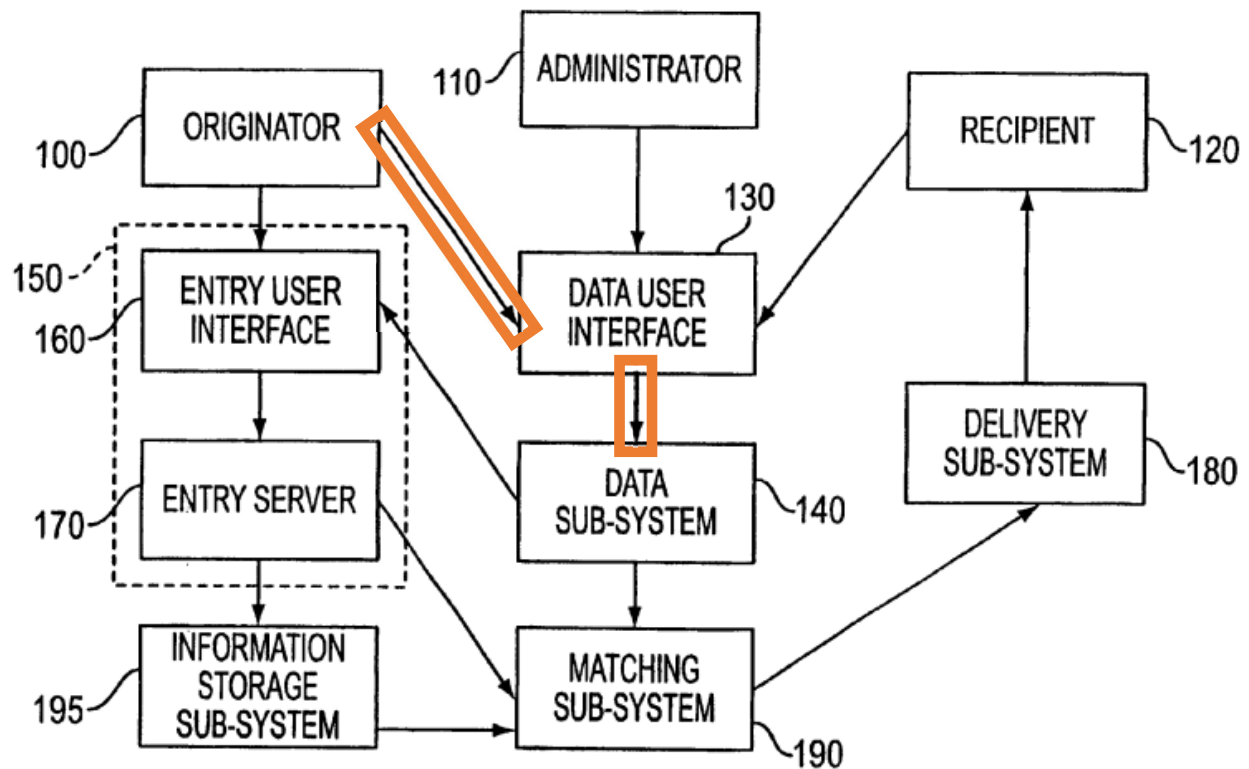
McFadden discloses the claimed messenger profile application by describing a “data user interface 130” operating in the messenger’s web-browser. EX1004, 6:33-37, 4:21-25; EX1002, ¶86. McFadden explains that messengers may enter profile data (including profile rules) via interface 130. EX1004, 10:27-34 (Messengers “may enter profile data into the system using data user interface 130.”), 6:33-37 (“[O]riginators 100 . . . may enter profile rules,” where “[e]ntry of profile rules data occurs via a data user interface.”); Fig 1 (arrow from originator 100 to data user interface 130). Thus, in McFadden, the messenger profile application (data user interface 130 in a web-browser) receives messenger profile data from messengers. EX1002, ¶86. A POSITA would understand this to be a “messenger” profile application because the data user interface 130 executes in the messenger’s web-browser. *Id.*

In addition, McFadden describes the “data user interface 130” as consisting of a messenger-specific “rule construction form,” which further discloses a profile application specific to the messenger. EX1004, 6:33-43; EX1002, ¶87. The messenger-specific form is generated based on the messenger’s selection of profile topics. *Id.* Specifically, when a user enters profile data via the user interface, the user will select topics from a set of “profile-specific topics.” EX1004, 6:35-38. The form presented to the user “will depend on the topics selected” because the selected topics are “used to create the rule construction form.” *Id.*, 6:38-42. Thus, a POSITA would understand that the form presented is specific to the messenger based on the messenger’s prior selections. EX1002, ¶87. Using the messenger-specific form, the user may enter “one or more Boolean conditions” consisting of operands and references. EX1004, 6:42-54. Thus, in McFadden, the messenger profile application (interface 130 with messenger’s rule construction form) receives messenger profile data (profile data comprising Boolean conditions) from messengers. EX1002, ¶87.

McFadden further explains that the data user interface “comprises client and server components” with “Internet- and network-accessible client components” operating in, for example, “a web-browser.” EX1004, 4:21-25. These client and server components “interact using secure and non-secure Internet... protocols.” *Id.*,

4:25-27. As Dr. Greenspun explains, a POSITA would understand that the data user interface receives profile data from a messenger at the client component of the data user interface, including through a web-browser via the Internet. EX1002, ¶88. Thus, in McFadden, the messenger profile data is received from messengers via the global network (the Internet). *Id.*

McFadden also discloses storing the messenger profile data received from the user interface in a database. EX1004, Fig. 1, 3; EX1002, ¶89. McFadden illustrates the relationship between the messenger, the data user interface, and the data subsystem in Figure 1:



EX1004, Fig. 1 (annotated).

Figure 1 shows via directional arrows that the originator 100 (representing the claimed messenger) sends profile data to the data user interface 130, and that the data user interface sends the data to the data sub-system 140. *Id.*; EX1002, ¶89. McFadden explains that the operation of the data sub-system “involves storage and indexed retrieval of data.” EX1004, 8:36-38. Furthermore, Figure 3 of McFadden shows that the data sub-system 140 includes a profile database 310 and rule database 330 for storing profile data and associated profile rules:

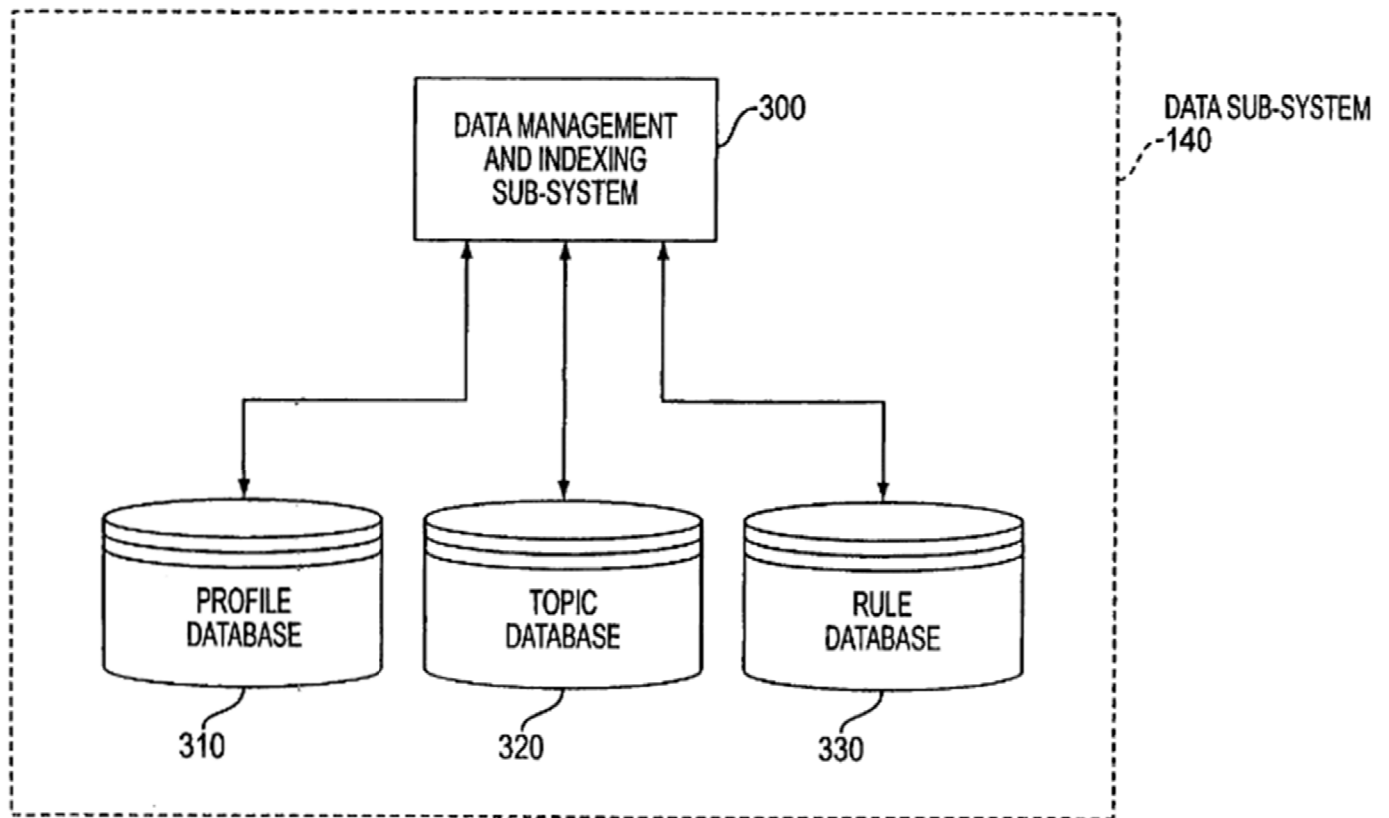


FIG. 3

Id., Fig. 3.

A POSITA would understand that profile data and rules sent from the data user interface to the data sub-system 140, as shown in Figure 1, is stored in the databases of the data sub-system 140 of Figure 3. *Id.*, Figs. 1, 3; EX1002, ¶¶90. Data sub-system 140 makes up a part of the electronic message management database (collectively, data sub-system 140 and information storage sub-system 195), and thus, the messenger profile data and rules are stored in the claimed electronic

message management database. EX1002, ¶90.

McFadden also discloses that messenger profile data includes “messenger identifying data.” McFadden discloses that profile database 310 contains profile data about “a particular originator.” EX1004, 10:30-33 (“at the start of the operation by a particular originator, the profile data about that originator is retrieved from profile database 310 or data sub-system 140.”); *see also* 7:7-10 (users enter “profile configuration data,” where “this configuration data will be entered first and used to determine the set of topics available to each user”). The profile data specific to a particular originator is used to present a set of topics to the particular originator. *Id.*, 10:33-35. As Dr. Greenspun explains, a POSITA would understand that profile configuration data about a “particular originator” must contain identifying data regarding which originator that profile configuration data is associated with. EX1002, ¶91. Without proper identifying data, the McFadden system would not be able to determine and retrieve the profile configuration data for the particular originator. *Id.* Thus, the messenger profile data received by the data user interface and stored in the database in McFadden necessarily includes messenger identifying data. *Id.*

- g. 1[f]: the electronic computer system having... a message input application for receiving message files from a messenger via the global network and storing the message files in the database, and**

McFadden discloses or renders obvious limitation 1[f]. EX1002, ¶¶93-101.

McFadden discloses an “entry sub-system 150” that meets the claimed “message input application.” EX1004, 4:1-4. The “entry sub-system 150” both receives message files from a messenger and stores the message files in a database. EX1002, ¶94. McFadden explains that the entry sub-system 150 comprises an entry user interface 160 and an entry server 170 as shown in Figure 1:

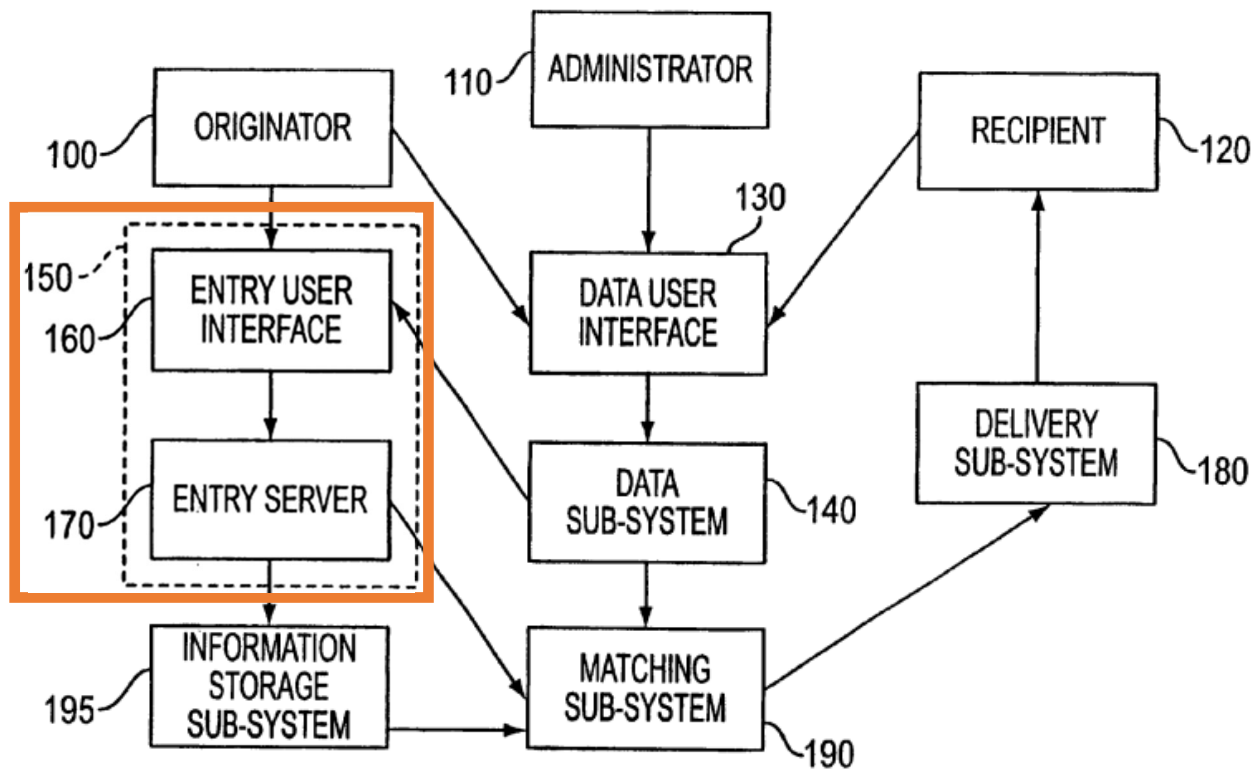


FIG. 1

EX1004, Fig. 1 (annotated).

The diagram shows a box labeled “150” (denoting the entry sub-system) containing the entry user interface and entry server. *Id.*, 3:61-65, EX1002, ¶95. McFadden explains that a messenger “provid[es] information to an entry sub-system 150.” EX1004, 4:2-4. The entry sub-system receives this information via the “entry user interface 160,” a component of the entry sub-system through which a messenger “enters the information into the system.” *Id.*, 10:17-20. This information may comprise “messages” that “move through the system from originator 100 to entry

sub-system 150.” *Id.*, 4:45-48, 10:40-42.

The entry sub-system then stores messages received in an “information storage sub-system 195.” EX1004, 5:58-61. Figure 6 illustrates this process, where at step 608, “the originator enters a message.” *Id.*, 10:40-42. Then, at step 610, “the message is stored in the database 410 of information storage sub-system 195.” *Id.*, 10:53-56. The information storage sub-system 195 “handles requests for content as well as the addition and updating of content.” *Id.*, 5:44-46. Figure 4 shows the components of the information storage sub-system 195, including the messages and content database 410:

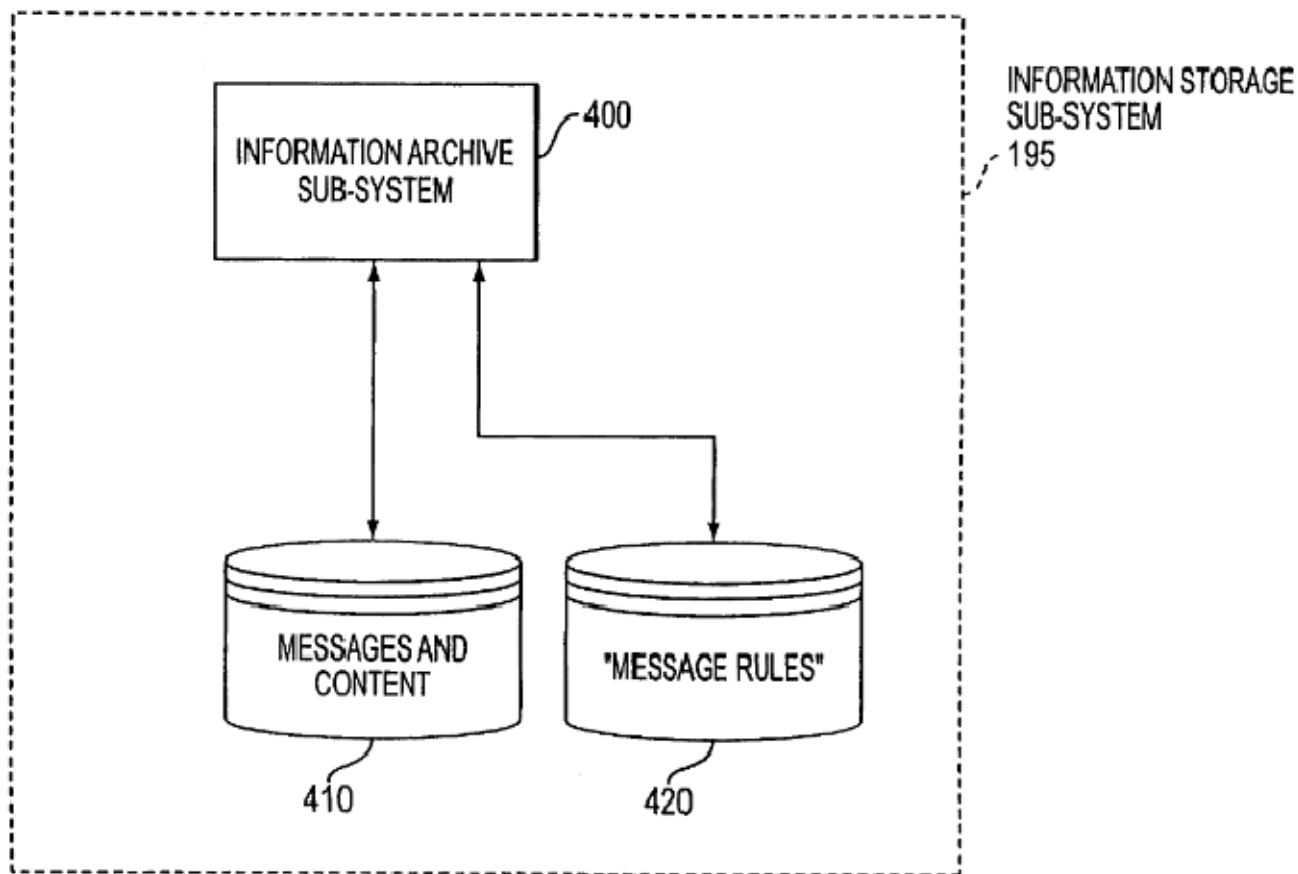


FIG. 4

Id., Fig. 4.

The information storage sub-system 195 makes up a part of the electronic message management database (collectively, data sub-system 140 and information storage sub-system 195), and thus, the messages received by the entry sub-system are stored in the claimed electronic message management database. EX1002, ¶97.

In addition, the “message input application” in McFadden may consist of an entry form. *Id.*, 5:18-22 (“The user interfaces that are part of the entry 150 . . . for

adding messages use the topic display information to construct the forms presented to users.”); EX1002, ¶98.

Further, in McFadden, messages are received from messengers via the global network (the Internet). EX1002, ¶99. McFadden discloses that the components which interact with originators “comprise[] client and server components” with “Internet- and network-accessible client components” operating in, for example, “a web-browser.” EX1004, 4:21-27 (“using secure and non-secure Internet... protocols”) *Id.*, 4:25-27. From this disclosure, a POSITA would understand that the entry sub-system receives messages from a messenger at the entry user interface, including through a web-browser via the Internet. EX1002, ¶99.

McFadden further discloses that these messages may be in the form of “structured information” in Extensible Markup Language (“XML”) or Standardized General Markup Language (“SGML”). EX1004, 4:45-52 (messages move through entry sub-system 150 in XML or SGML file formats). As Dr. Greenspun explains, a POSITA would recognize XML and SGML as well-known file formats used to store structured data. EX1002, ¶100. Thus, a POSITA would understand that the messages received by the entry sub-system 150 of McFadden may be in the form of XML or SGML files, and constitute “message files.” *Id.*

- h. 1[g]: the electronic computer system having... an individual message generator in communication with the database and operative to access and utilize data and files from the database to generate an individual message to be sent to the recipient specified by the messenger via the global communications network according to the delivery parameters, and**

McFadden discloses or renders obvious limitation 1[g]. EX1002, ¶¶102-110

McFadden discloses a “matching sub-system 190,” representing the claimed individual message generator in communication with the database. EX1002, ¶103. Figure 1 illustrates the communication between the matching sub-system 190 (individual message generator) and the storage sub-systems 140 and 195 (collectively, the claimed database) of McFadden:

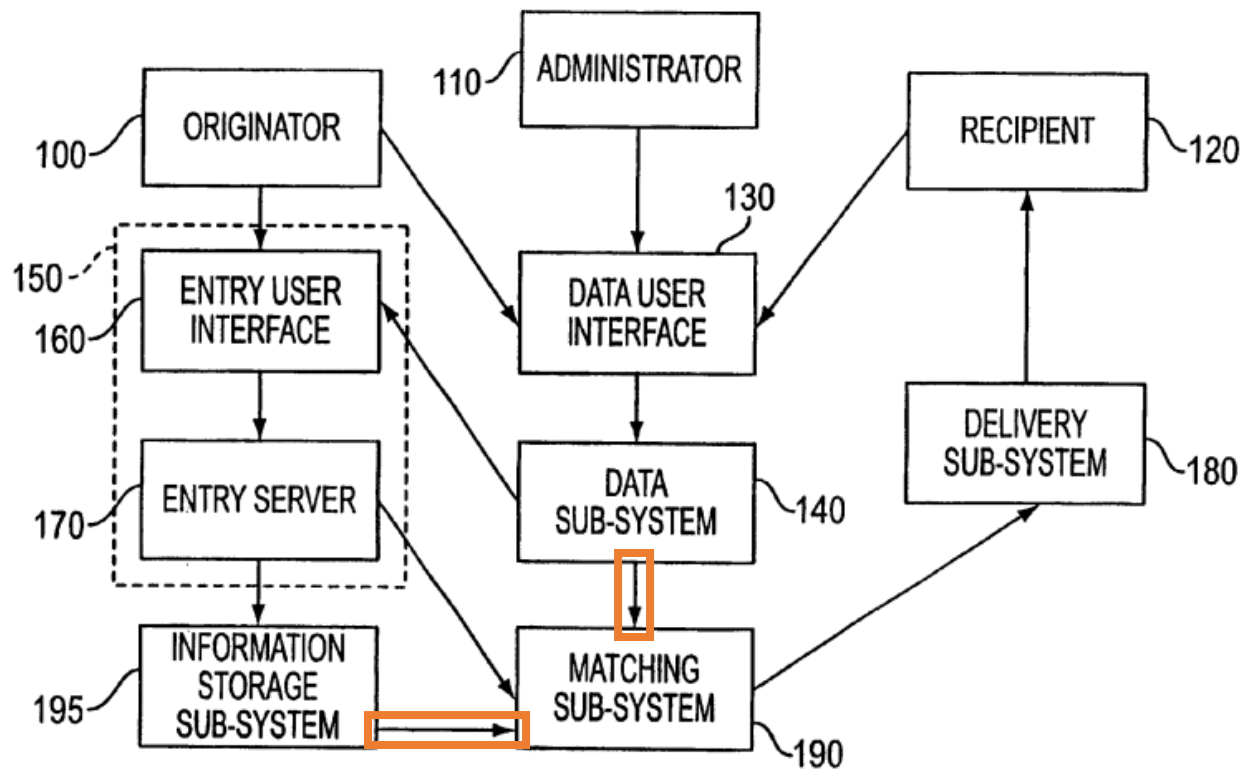


FIG. 1

EX1004, Fig. 1 (annotated).

To generate the individual message, Figure 1 shows via directional arrows that the matching sub-system 190 receives data from the information storage sub-system 195 and the data sub-system 140. *Id.*; EX1002, ¶103. From information storage sub-system 195, the matching sub-system 190 retrieves the message, applying “message rules” to the message to identify the recipient(s) for the message. EX1004, 7:42-58, 10:53-60, 11:52-58, Fig. 1, Fig. 4; EX1002, ¶103. From data sub-system 140, the matching sub-system 190 may also receive “profile rules” to “further refine” the

recipients for the message. *Id.*, 5:33-34, 7:52-55, Figs 1, 3. A POSITA would understand that an “individual” message comprises message content paired with recipient information. EX1002, ¶103. Thus, by retrieving the stored message and then applying the stored rules to identify the recipient(s) of the message, the matching sub-system generates the individual message(s). *Id.*

As discussed, the stored messages in McFadden may be in XML or SGML file format (*id.*, 4:45-52), and a POSITA would understand XML and SGML files to be message “files.” EX1002, ¶104. Accordingly, the matching sub-system 190 is in communication with the database, and utilizes data and files from the database to generate an individual message to be sent. *Id.*

After the matching sub-system 190 generates the individual message to be sent, the matching sub-system 190 works with the delivery sub-system to send the message in accordance with the delivery parameters. EX1004, Fig. 1 (arrows from the database to matching sub-system 190, which then provides delivery parameters to delivery sub-subsystem 180), 7:57-67 (delivery in accordance with recipient delivery parameters); EX1002, ¶105.

McFadden also discloses generating an individual message to be sent to the recipient specified by the messenger. EX1002, ¶106. McFadden explains that the originator may enter a message “which he desires to send to interested recipients.”

EX1004, 10:40-42. To target these interested recipients, the originator may enter “message rules to reflect the originator’s target audience.” *Id.*, 10:44-48, 11:51-57 (specifying message rules for specific recipients), *see also id.*, 14:9-12 (“a message provider will be able to select a set of computer users that the message provider would like to receive the message”). McFadden teaches that the rules are “for properly routing the message” and “for identifying the interested recipients.” *Id.*, 10:55-61. In McFadden, the message rules “will be attached to the message as it flows through the system and are stored with or in parallel with the message in the information storage.” *Id.*, 6:28-33. The matching sub-system generates messages with attached message rules indicating the recipients specified by the messenger. *Id.*, 7:42-58, 10:53-60, Fig. 1, Fig. 4; EX1002, ¶106.

In addition, a POSITA would understand that McFadden discloses a rule construction form that allows the messenger to specify the recipient(s) in the message rule. EX1002, ¶107. For example, McFadden discloses a “rule construction procedure [that] allows a user to specify one or more Boolean conditions.” EX1004, 6:43-45. In McFadden, a Boolean condition can employ any “operands for character and numeric data” along with “contains,” “starts with,” or “ends with.” *Id.*, 6:50-55. A POSITA would know to create a message rule by using a Boolean condition having the recipient’s name or email address along with

“contains.” EX1002, ¶107. Accordingly, a POSITA would understand that McFadden discloses or renders obvious a message where the messenger specifies recipients for the message. *Id.*

Further, in McFadden, messages are transmitted via a global network (the Internet). *Id.*, ¶108. McFadden discloses that messages may be transmitted “via e-mail” and “Internet protocols.” EX1004, 7:57-63. McFadden also discloses that the components which interact with recipients “comprise[] client and server components” with “Internet- and network-accessible client components” operating in, for example, “a web-browser.” EX1004, 4:21-25. These client and server components “interact using secure and non-secure Internet... protocols.” *Id.*, 4:25-27.

Alternatively, a POSITA would understand that the matching sub-system 190 and the delivery sub-system 180 of McFadden could be combined into a single sub-system with the functionality of both. EX1002, ¶109. McFadden itself contemplates that “[a]ny or all of the sub-systems could be combined without changing the nature or functioning of the system.” EX1004, 12:13-15. Furthermore, the delivery sub-system 180 receives data only from the matching sub-system, as illustrated in Figure 1. EX1004, Fig. 1. Because the delivery sub-system has no other data dependencies, a POSITA would understand that combining the delivery sub-system into the

matching sub-system would be a straightforward modification of McFadden which could be executed with a reasonable expectation of success. EX1002, ¶109. A POSITA would be motivated to make this modification to reduce data transfers between different sub-systems and thereby improve the efficiency and speed of the system. *Id.*

A combined matching-delivery sub-system in McFadden could represent the claimed individual message generator. The combined matching-delivery sub-system generates the individual message to be sent and then sends the message in accordance with the delivery parameters. EX1004, 10:61-65 (matching to a recipient, then delivery), 7:42-56 (the matching function operable to access and utilize data and files from the database), 7:57-67 (delivery in accordance with recipient delivery parameters); EX1002, ¶110.

i. 1[h]: the electronic computer system having... a message management server operating system; and

McFadden discloses or renders obvious limitation 1[h]. EX1002, ¶¶111-112. McFadden discloses that the matching sub-system “is a multi-threaded and distributed sub-system. It is implemented as a continually operating computer process or service on at least one server.” EX1004, 4:41-43. The concepts of a “operating computer process” or “service,” refer to structures rooted in and managed

by an operating system. EX1002, ¶111. Regarding other sub-systems, McFadden discloses that “a large number of users can be connected to the entry 150, data 140, delivery 180” where the number of users “is limited only by the bandwidth utilized by the process and the size and number of computer servers running the system portion of the process.” EX1004, 4:33-40. Given the sub-systems of McFadden are implemented by computer servers running computer processes, a POSITA would understand these subsystems are implemented by computer programs on general purpose server computers. EX1002, ¶111. Such general-purpose server computers necessarily implement an operating system. EX1002, ¶111.

- j. **1[i]: the message management database including recipient and messenger profile databases for storing recipient and messenger profile data respectively, and a message database for storing message data files.**

McFadden discloses or renders obvious limitation 1[i]. EX1002, ¶¶113-121.

The information storage sub-system 195 and data sub-system 140 in combination represent the claimed “electronic message management database.” *See* Section VIII.A.1.c. These sub-systems (140 and 195) each contain collections of information that can be characterized as databases. EX1004, Fig. 3 (showing the data sub-system containing a profile database 310, a topic database 320, and a rule database 330), Fig 4 (showing the information storage sub-system containing a

messages and content database 410 and a message rules database 420), 4:66-5:3; 5:43-48; EX1002, ¶114.

As shown in Figure 4, McFadden discloses a “messages and content database 410” (representing the claimed message database for storing message data files) as part of the information storage sub-system 195:

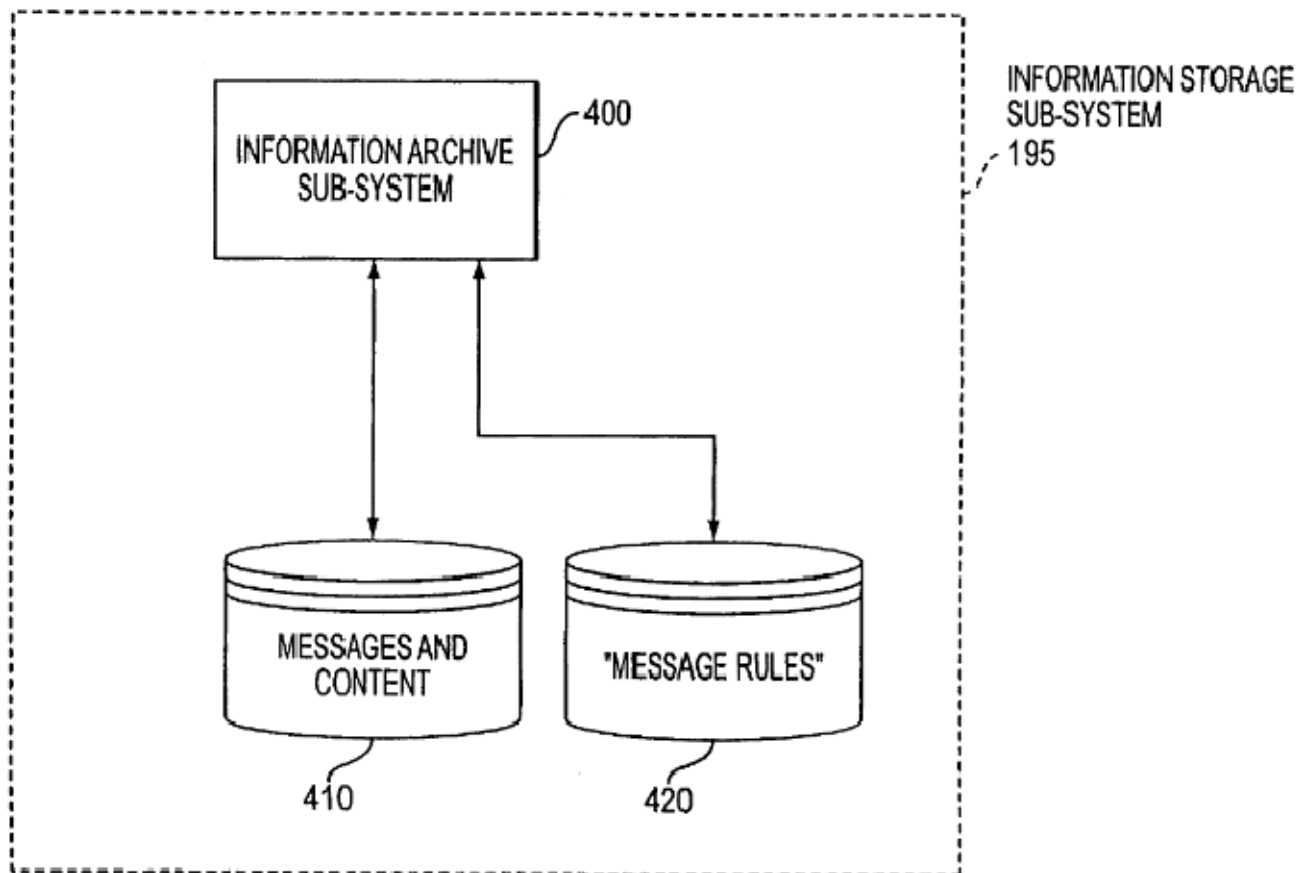


FIG. 4

Id., Fig. 4.

McFadden explains that message data is stored in “information storage sub-system 195.” EX1004, 5:58-61; Section VIII.A.1.g, above. As discussed, the stored messages in McFadden may be in XML or SGML file format (*id.*, 4:45-52), and as Dr. Greenspun explains, a POSITA would understand XML and SGML files to be message “files.” EX1002, ¶116.

As shown in Figure 3, McFadden discloses a “profile database” and “rule database” that form parts of the data sub-system 140:

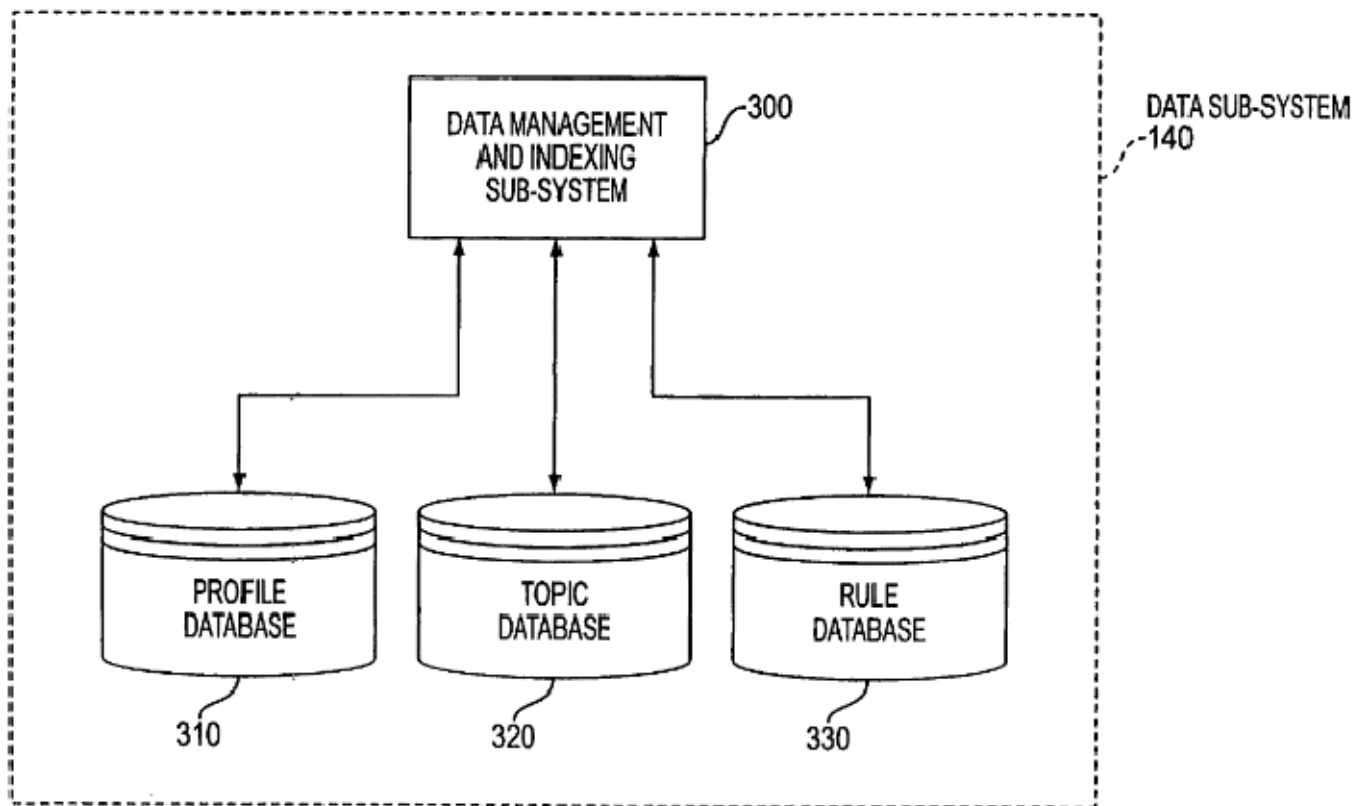


FIG. 3

Id., Fig. 3.

Profile data for recipients and messengers are stored in each of the “profile database” and “rule database.” *Id.*, 10:53-61; Sections VIII.A.1.d and VIII.A.1.f. Each of these databases constitutes either a recipient profile database or a messenger profile database or both. EX1002, ¶118.

Alternatively, profile database 310 may represent the claimed messenger profile database and rule database 330 may represent the claimed recipient profile database. EX1002, ¶119. In the process illustrated by Figure 6, McFadden explains that profile data about a messenger is retrieved “from profile database 310” in step 602. EX1004, 10:30-33, Fig. 6. This profile data is used to present a set of topics to the originator. *Id.*, 10:33-35 (“In step 604, a set of topics is then presented to the originator on the basis of the obtained profile data in step 602.”). Later, at step 612, “[t]he rules for identifying the interested recipients are retrieved from rule database 330,” including “profile rules of the potential recipients.” *Id.*, 10:56-61; *see also id.* 5:31-35 (“rules contained in the rule database 330” include “profile rules” from recipients). A POSITA would understand that the profile database 310 may store messenger profile data, while the rule database 330 may store recipient profile data. EX1002, ¶119. Thus, the profile database 310 may be the claimed messenger profile database and the rule database 330 may be the claimed recipient profile database. *Id.* As shown in Figure 3, both are sub-databases of the data sub-system, which in

turn is a component of the claimed “electronic message management database.” *Id.*

Alternatively, and as Dr. Greenspun explains, it would have been obvious to a POSITA that profile data for messengers and for recipients could be stored in different databases, subparts, or tables of either the profile database 310 or the rule database 330. EX1002, ¶120. A POSITA would understand that a database can be divided between different subparts without changing the nature or functioning of the system. *Id.* A POSITA would have understood that databases are routinely organized into subparts, and that the exact organization of data between different subparts of a database are routine design choices which would not affect the overall functionality of the system. *Id.* Subdividing a single database into different subparts having recipient profile data in one and messenger profile data in the other, would have been a straightforward design change which could easily be implemented by one skilled in the art with a reasonable expectation of success. *Id.*

2. **Claim 2: The electronic message management system of claim 1, wherein the recipient profile application includes a global network interactive recipient profile input form, the recipient profile input form being accessible to a recipient computer via the global digital communications network.**

McFadden discloses or renders obvious Claim 2. EX1002, ¶¶122-127.

McFadden discloses the recipient profile application includes a “rule construction form” (the claimed global network interactive recipient profile input form). EX1004, 6:33-55; EX1002, ¶123. The recipient enters profile rules data by constructing a rule using the rule construction form. *Id.*

McFadden explains that the “[e]ntry of profile rules data occurs via a data user interface.” EX1004, 6:35-37. Because entry of profile rules data occurs via the data user interface, and the user enters profile rules data by constructing a rule using a rule construction form, a POSITA would understand that the rule construction form is a component of the data user interface. EX1002, ¶124.

McFadden discloses that the data user interface “comprises client and server components” with “Internet- and network-accessible client components” operating in, for example, “a web-browser.” EX1004, 4:21-25. A POSITA would understand that the rule construction form, as a component of the data user interface, is accessible to a recipient computer via a web-browser that accesses the Internet (global digital communications network). EX1002, ¶125.

McFadden also discloses that the form is specific to the recipient. EX1004, 6:38-43; EX1002, ¶126. The recipient-specific form is generated based on the recipient’s selection of profile topics. *Id.* McFadden explains that, for each rule a user enters via the data user interface, the user “selects topics from a set of available

topics.” EX1004, 6:35-38. The form presented to the user “will depend on the topics selected” because the selected topics are “used to create the rule construction form.” *Id.*, 6:38-43. Thus, the form presented is specific to the recipient based on the recipient’s prior selections. EX1002, ¶126.

3. Claim 3: The electronic message management system of claim 1, wherein the messenger profile application includes a global network interactive messenger profile input form, the messenger profile input form being accessible to a messenger computer via the global digital communications network.

McFadden discloses or renders obvious Claim 3. EX1002, ¶128-133.

McFadden discloses the messenger profile application that includes a “rule construction form” (the claimed global network interactive messenger profile input form). EX1004, 6:38-42; EX1002, ¶129. The messenger enters profile rules data by constructing a rule using the rule construction form. *Id.*

McFadden explains that the “[e]ntry of profile rules data occurs via a data user interface.” *Id.*, 6:35-37. Because entry of profile rules data occurs via the data user interface, and the user enters profile rules data by constructing a rule using a rule construction form, a POSITA would understand that the rule construction form is a component of the data user interface. EX1002, ¶130.

McFadden discloses that the data user interface “comprises client and server components” with “Internet- and network-accessible client components” operating in, for example, “a web-browser.” EX1004, 4:21-25. A POSITA would understand that the rule construction form, as a component of the data user interface, is accessible to a recipient computer via a web-browser that accesses the Internet (global digital communications network). EX1002, ¶131.

McFadden also discloses that the form is specific to the messenger. EX1004, 6:38-43; EX1002, ¶132. The messenger-specific form is generated based on the messenger’s selection of profile topics. *Id.* McFadden explains that, for each rule a user enters via the data user interface, the user “selects topics from a set of available topics.” *Id.*, 6:35-38. The form presented to the user “will depend on the topics selected” because the selected topics are “used to create the rule construction form.” *Id.*, 6:38-43. Thus, the form presented is specific to the messenger based on the messenger’s prior selections. EX1002, ¶132.

4. **Claim 4: The electronic message management system of claim 1, wherein the message input application includes an interactive global network message input form, the message input form being accessible to a messenger computer via the global communications network.**

McFadden discloses or renders obvious Claim 4. EX1002, ¶134-137.

McFadden discloses the message input application that includes a message “entry form” (the claimed interactive global network message input form). EX1004, 6:5-16, 5:15-22. McFadden explains that the entry sub-system 150 and its entry user interface 160 present the “entry form” to the originator as part of the process of entering a message. *Id.*; EX1002, ¶135.

McFadden further explains that the entry user interface “comprises client and server components” with “Internet- and network-accessible client components” operating in, for example, “a web-browser.” EX1004, 4:21-25. A POSITA would understand that the entry form, as part of the entry user interface, is accessible to a messenger computer via a web-browser that accesses the Internet (global digital communications network). EX1002, ¶136.

5. Claim 5: The electronic message management system of claim 1, wherein the recipient profile application further comprises a network interface and a recipient profile editor for receiving recipient profile data from a recipient computer via the global network interface and for manipulating the recipient profile database to store the recipient profile data.

McFadden discloses or renders obvious Claim 5. EX1002, ¶138-144.

McFadden discloses that the recipient profile application comprises a user interface having “client and server components” that “interact using secure and non-secure Internet, network, and distributed object protocols.” EX1004, 4:21-27. A

POSITA would understand that, for the client and server components to communicate via “Internet, network, and distributed object protocols,” these components necessarily have a global network interface. EX1002, ¶139.

McFadden further discloses that the recipient profile application comprises a recipient profile editor to receive profile data via the network interface. EX1002, ¶140. In particular, McFadden discloses that “profile editors” make use of “[t]opic display data.” EX1004, 7:36-41. Topic display data is information that “describes how an instance of a topic will be displayed singularly or in a form editor or rules editor,” including for “profile topics.” *Id.*, 5:9-14, 7:37-39 (“Topic display data include data to be used by . . . profile editors”). Topics, in turn, are selected by a recipient to define and edit profile data through the user interface. *Id.*, 6:33-38; *see also* Section VIII.A.1.d. A POSITA would understand that the profile editor is a component of the data user interface operable to allow a recipient to edit their profile data. EX1002, ¶140.

Furthermore, McFadden discloses that the profile editor of the data user interface is operable to “interact[] with other sub-systems” for storage. EX1004, 4:27-29. As illustrated in Figure 1, the data user interface primarily interacts with the data sub-system 140:

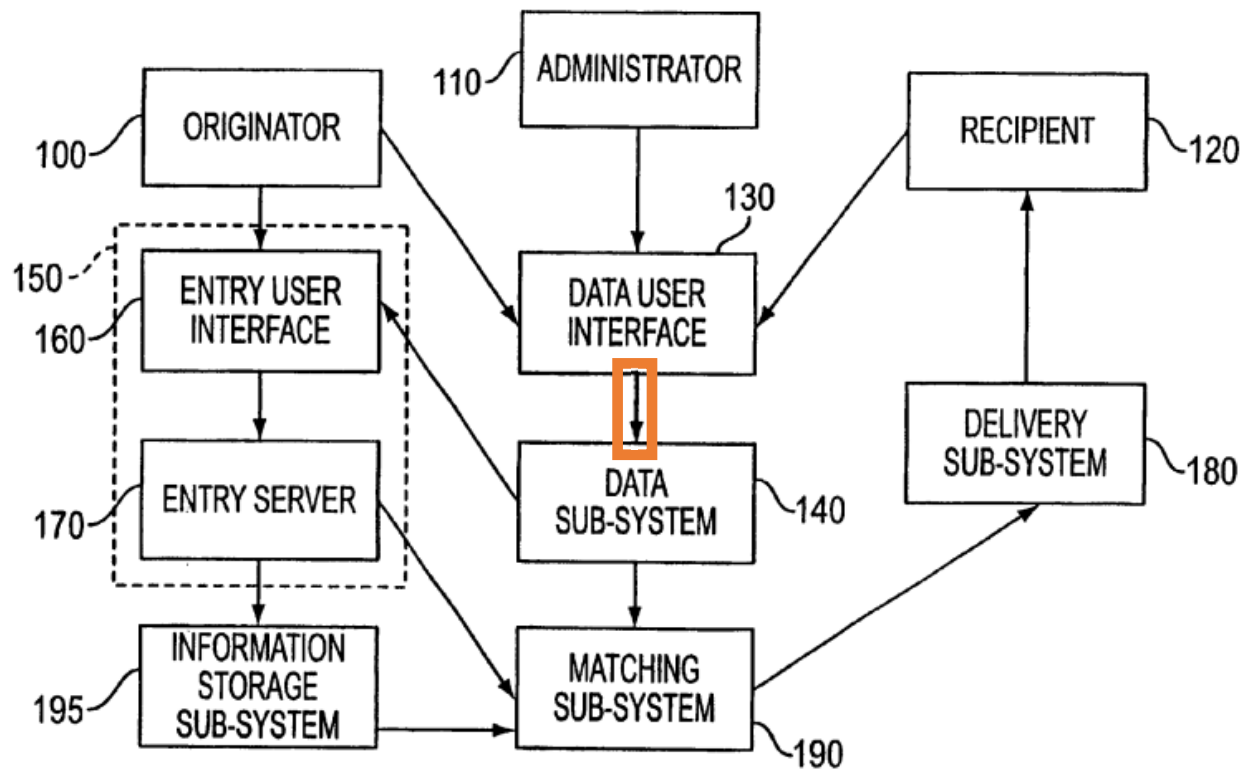


FIG. 1

EX1004, Fig. 1 (annotated).

The directional arrow indicates that the data user interface 130 sends profile data to the data sub-system 140 for storage. EX1002, ¶142; EX1004, 8:36-38. Furthermore, Figure 3 of McFadden shows that the data sub-system 140 includes a profile database 310 to store profile data and rule database 330 to store profile rules data:

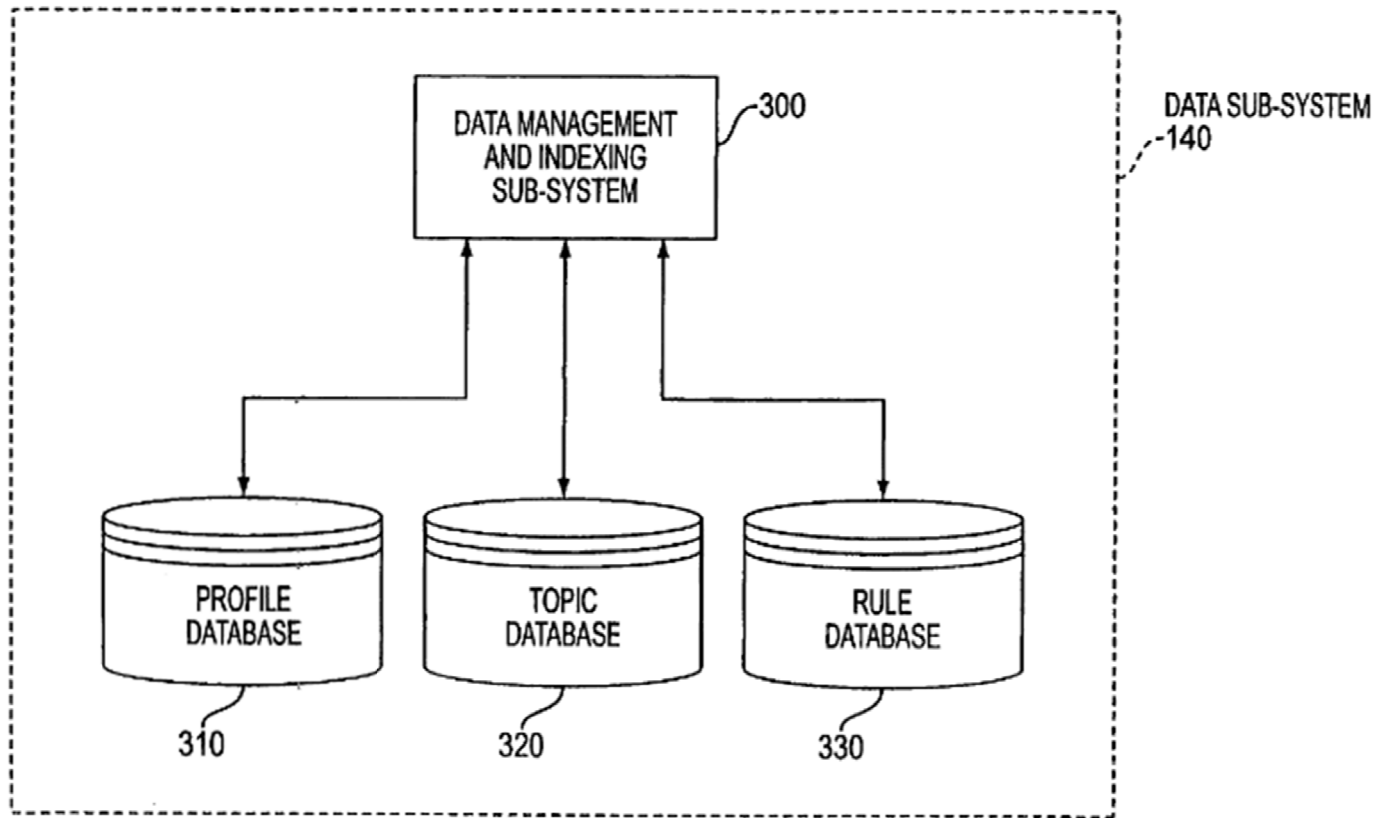


FIG. 3

Id., Fig. 3.

A POSITA would understand that the profile editor interacts with the data sub-system 140 to edit and store recipient profile data and profile rules data in the databases of Figure 3. EX1002, ¶143. A POSITA would further understand that each of profile database 310 and rule database 330 of Figure 3 is a “recipient profile database” because each is operable to store profile data received from recipients. *Id.*

- 6. Claim 6: The electronic message management system of claim 1, wherein the messenger profile application further comprises a global network interface and a messenger profile editor for receiving messenger profile data from a messenger computer via the global network interface and for manipulating the messenger profile database to store the messenger profile data.**

McFadden discloses or renders obvious Claim 6. EX1002, ¶¶145-151.

McFadden discloses that the messenger profile application comprises a user interface having “client and server components” that “interact using secure and non-secure Internet, network, and distributed object protocols.” EX1004, 4:21-27. A POSITA would understand that, for the client and server components to communicate via “Internet, network, and distributed object protocols,” these components necessarily have a global network interface. EX1002, ¶146.

McFadden further discloses that the messenger profile application comprises a messenger profile editor to receive profile data via the network interface. EX1002, ¶147. In particular, McFadden discloses that “profile editors” make use of “[t]opic display data.” *Id.*, 7:36-41. Topic display data is information that “describes how an instance of a topic will be displayed singularly or in a form editor or rules editor,” including for “profile topics.” *Id.*, 5:9-14, 7:37-39. Topics, in turn, are selected by a messenger to define and edit profile data through the user interface. *Id.*, 6:33-38;

see also Section VIII.A.1.f. A POSITA would understand that the profile editor is a component of the data user interface operable to allow a messenger to edit their profile data. EX1002, ¶147.

Furthermore, McFadden discloses that the profile editor of the data user interface is operable to “interact[] with other sub-systems” for storage. EX1004, 4:27-29. As illustrated in Figure 1, the data user interface primarily interacts with the data sub-system 140:

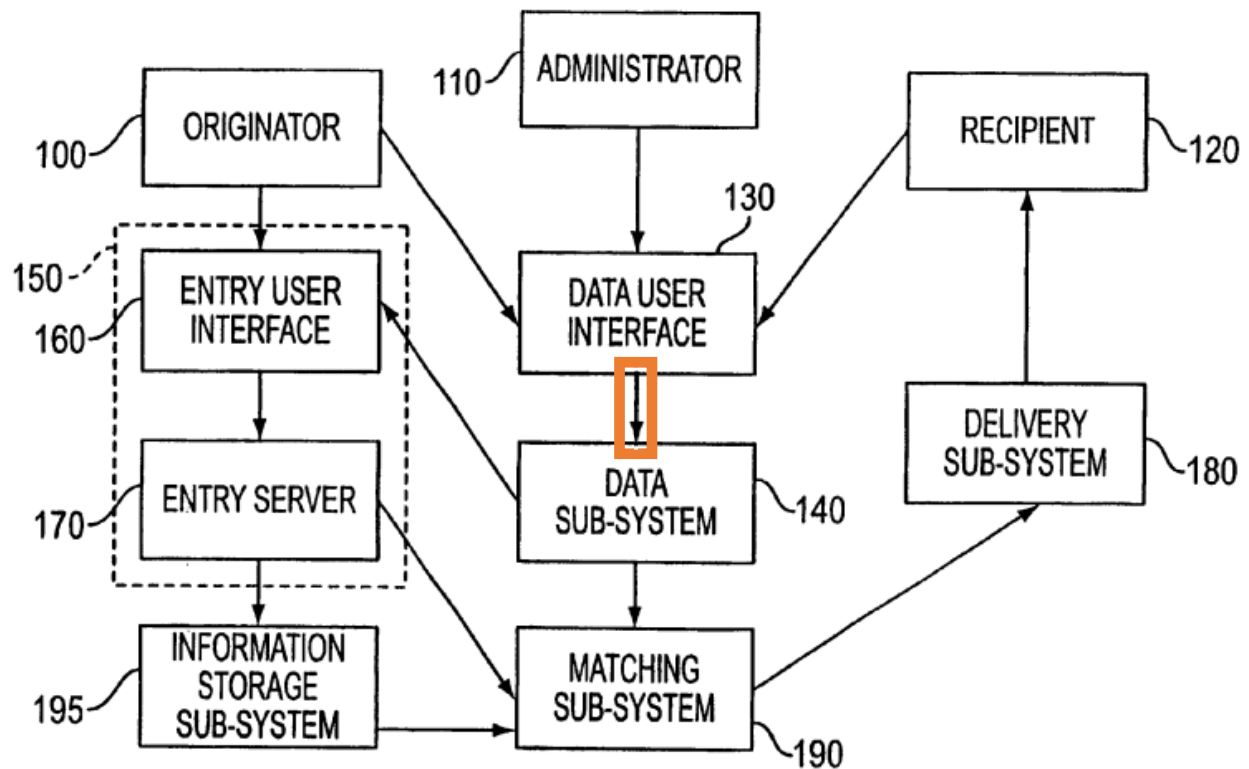


FIG. 1

EX1004, Fig. 1 (annotated).

The directional arrow indicates that the data user interface 130 sends profile data to the data sub-system 140 for storage. EX1002, ¶149; EX1004, 8:36-38. Furthermore, Figure 3 of McFadden shows that the data sub-system 140 includes a profile database 310 to store profile data and rule database 330 to store profile rules data:

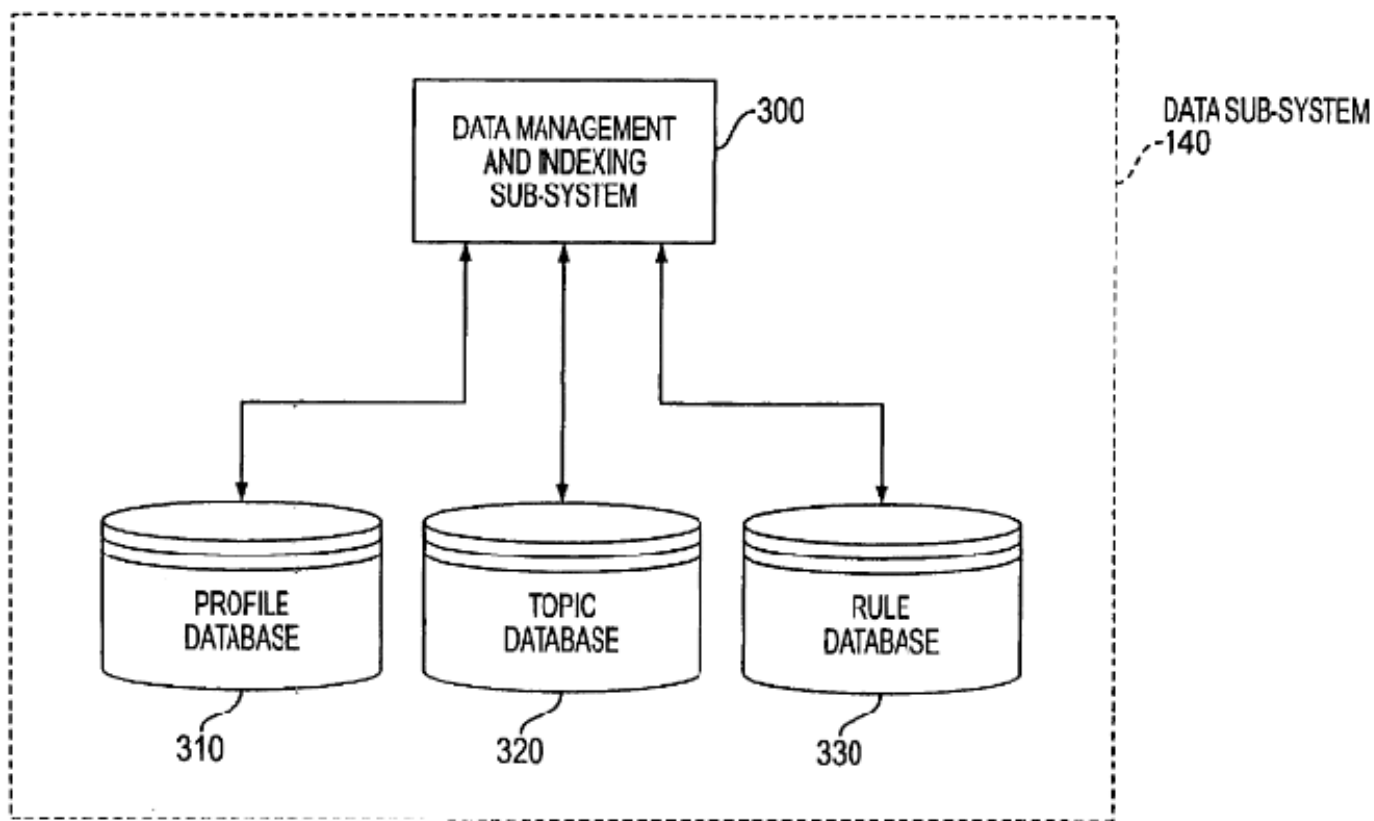


FIG. 3

EX1004, Fig. 3.

A POSITA would understand that the profile editor interacts with the data sub-system 140 to edit and store messenger profile data and profile rules data in the databases of Figure 3. EX1002, ¶150. A POSITA would further understand that each of profile database 310 and rule database 330 of Figure 3 is a “messenger profile database” because each is operable to store profile data received from messengers. *Id.*

7. Claim 7: The electronic message management system of claim 1, wherein the message input application further comprises a global network interface and a message data file editor for receiving a message file data from a messenger computer via the global network interface and for manipulating the message database to store the message data file.

McFadden discloses or renders obvious Claim 7. EX1002, ¶¶152-158

McFadden discloses that the message input application comprises an entry sub-system 150 including an entry user interface 160 having “client and server components” that “interact using secure and non-secure Internet, network, and distributed object protocols.” EX1004, 4:14-27, Fig. 1; *see* Section VIII.A.1.g, above. A POSITA would understand that, for the client and server components to communicate via “Internet, network, and distributed object protocols,” these components necessarily have a global network interface. EX1002, ¶153.

McFadden further discloses that the message input application comprises a message data file editor to receive message file data from a messenger via the network interface. EX1002, ¶154. In particular, McFadden discloses that “message editors” make use of “[t]opic display data.” *Id.*, 7:36-41. Topic display data is information that “describes how an instance of a topic will be displayed singularly or in a form editor or rules editor,” including for “message topics.” *Id.*, 5:9-14, 7:37-39 (“Topic display data include data to be used by . . . message editors”). Topics, in turn, are selected by a messenger to define and edit message file data through the user interface. *Id.*, 6:5-14 (the interface “makes available a set of topics that the originator 100 can select to describe the message or information that is entered”); *see also* Section VIII.A.1.g. A POSITA would understand that a message editor is a component of the entry user interface operable to display topics in order to allow a user to edit message file data. EX1002, ¶154.

Furthermore, McFadden discloses that the message editor of the entry user interface is operable to “interact[] with other sub-systems” for storage. EX1004, 4:27-29. As illustrated in Figure 1, the entry sub-system interacts with the information storage sub-system 195:

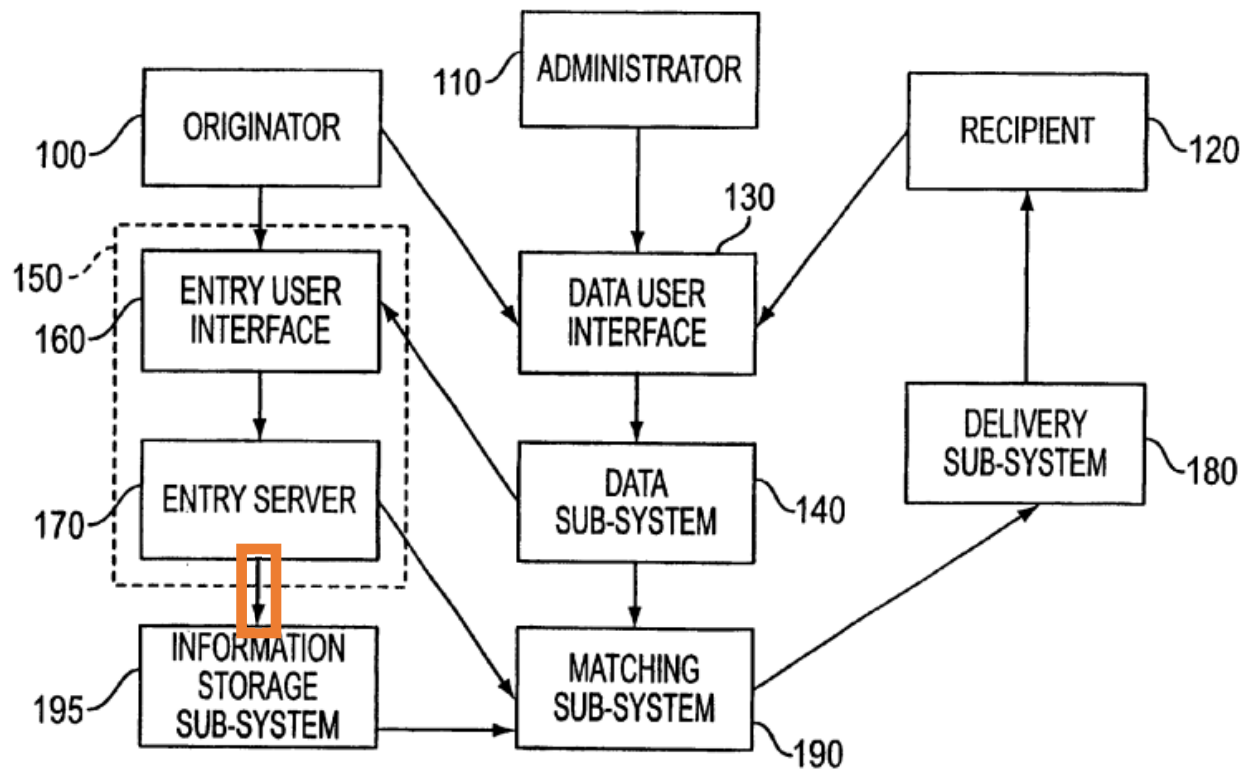


FIG. 1

EX1004, Fig. 1 (annotated).

The directional arrow indicates that the entry sub-system 150, including the entry user-interface, sends message file data to the information storage sub-system 195 for storage. EX1002, ¶156; EX1004, 5:43-46. Furthermore, Figure 4 of McFadden shows that the information sub-system includes a messages and content database 410 to store message file data:

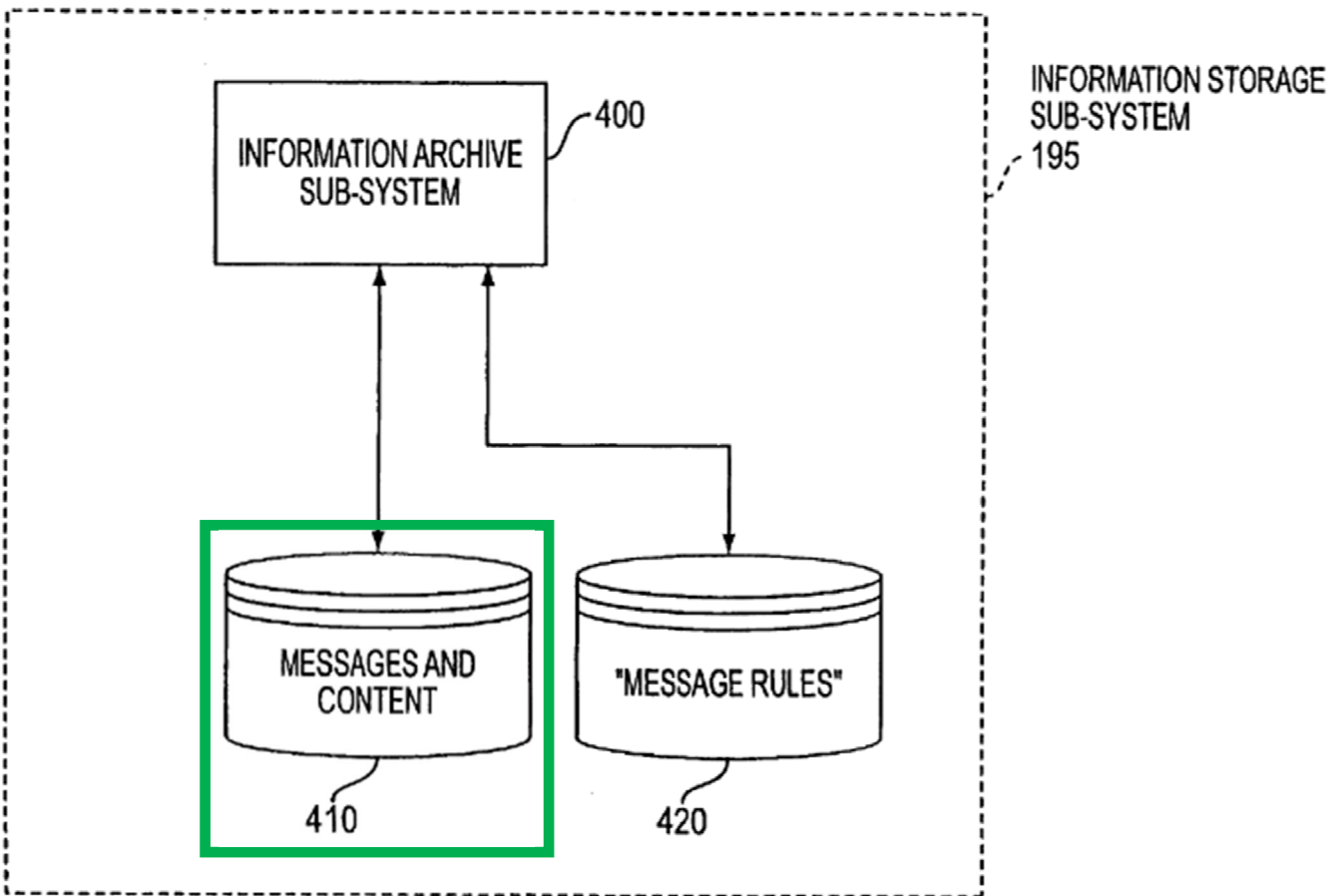


FIG. 4

EX1004, Fig. 4 (annotated).

A POSITA would understand that the message editor interacts with the information storage sub-system 195 to edit and store message file data in the messages and content database 410 of the information storage sub-system. EX1002, ¶157. A POSITA would further understand that database 410 of Figure 4 is a “message database” because it is operable to store message file data received from messengers. *Id.*

8. Claim 8

- a. 8[pre]: A method of inputting data into the message management system of claim 1 from client computers via a global communications network, to centrally manage the distribution and delivery format of electronic messages from multiple messenger sources to multiple individual recipients, comprising the steps of:**

McFadden discloses or renders obvious limitation 8[pre] of Claim 8. EX1002, ¶159-163.

McFadden discloses a method of inputting data into the system over the Internet. In particular, McFadden discloses a user interface operative to receive “profile rules” from client applications. EX1004, 6:33-36, 4:14-25. The data user interface, and other user interface components in McFadden, are operable to communicate with client components over the Internet (global communications network). *See* Section VIII.A.1.b; EX1004, 4:14-25; EX1002, ¶160.

McFadden further discloses that the system centrally manages the distribution and delivery format of electronic messages from multiple messenger sources to multiple individual recipients. EX1002, ¶161. McFadden provides “a system and method for employing an intuitive, rule-based approach to allow information originators to more intelligently distribute their information.” EX1004, 2:1-6. This system and method contemplates multiple messengers and multiple individual

recipients. *Id.*, 4:7-11 (any number originators or recipients), 11:34-35 (“system may involve thousands and possibly millions of users”).

McFadden further discloses that the system manages the delivery format of electronic messages, as explained in Section VIII.A.1.e. *See also* EX1004, 7:61-67 (system determines “how to transmit the message to its recipient”); 4:45-52 (messages delivered in XML and SGML file formats).

b. 8[a]: providing the client computers with access to the message management system via a global communications network, where the client computers are messenger and recipient computers;

McFadden discloses or renders obvious limitation 8[a] of Claim 8. EX1002, ¶164-167.

McFadden discloses that its sub-systems interact with originators and/or recipients having client computer components that are “Internet- and network-accessible” and may operate “in a web-browser.” EX1004, 4:14-25. As further explained in Sections VIII.A.1.d and VIII.A.1.e, these client computer components provide originators and recipients with access to the message management system via the Internet (global communications network).

Figure 1 illustrates how messenger and recipient client computers access the McFadden system through the user interfaces:

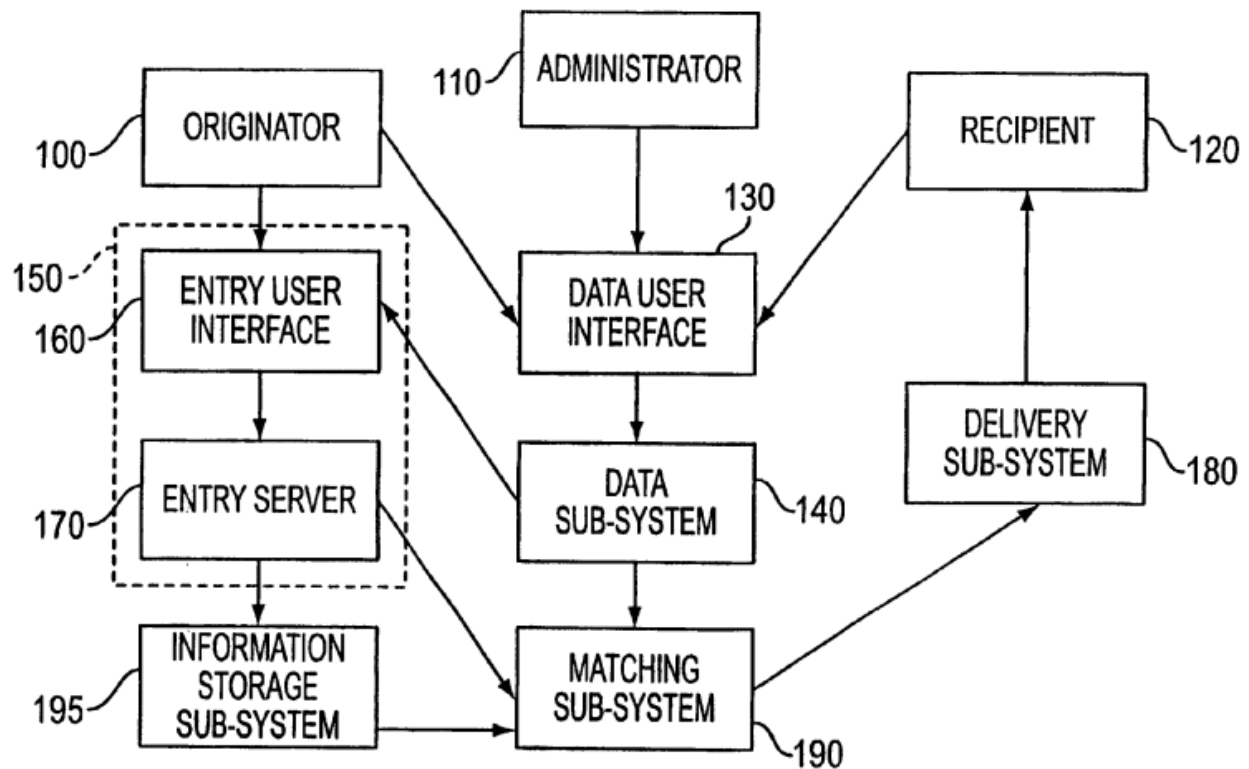


FIG. 1

EX1004, Fig. 1.

- c. **8[b]: receiving a connectivity request from a client computer for access to the message management system to input data;**

McFadden discloses or renders obvious limitation 8[b] of Claim 8. EX1002, ¶¶168-170.

McFadden explains that its “sub-systems interacting” with messengers and recipients have a computer user interface. EX1004, 4:14-18. The “client and server parts of the user interface interact using secure and non-secure Internet, network,

and distributed object protocols.” EX1004, 4:20-27. McFadden further describes these protocols as “standard Internet, network” protocols. *Id.*, 4:27-29. These protocols enable the client component to operate in a web-browser. *Id.*, 4:21-25. A POSITA would understand that connectivity requests are inherent in all standard Internet and network connectivity protocols known in the art. EX1002, ¶169. In particular, a web-browser on a client computer will initiate a connection via the Hypertext Transfer Protocol (“HTTP”), for example, through an HTTP GET request. *Id.*

d. 8[c]: connecting the client computer to the message management system via the global communication network;

McFadden discloses or renders obvious limitation 8[c] of Claim 8. EX1002, ¶¶171-173. McFadden explains that both originator and recipient client computers connect to the McFadden message management system. EX1004, 4:2-7. These interactions are shown with directional arrows in Figure 1:

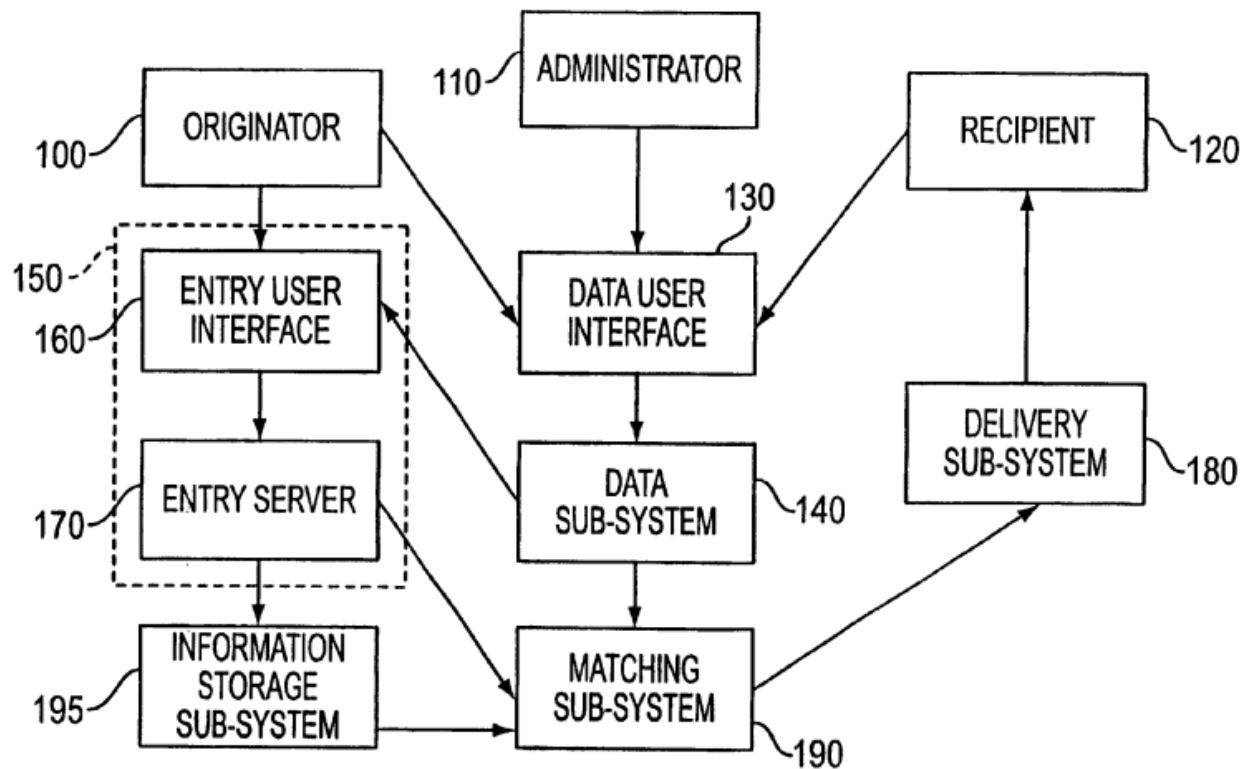


FIG. 1

EX1004, Fig. 1.

McFadden explains that the system interacts with originators and recipients through a “user interface” which “comprises client and server components, with the Internet- and network-accessible client components operating in a web-browser.” *Id.*, 4:20-27 (using “Internet, network, and distributed object protocols”). A POSITA would understand that, for the client and server components to interact using Internet protocols, they must inherently be connected via the Internet (a global communication network). EX1002, ¶172.

e. 8[d]: prompting the client computer for the data to be input by providing a data input form to the client computer; and

McFadden discloses or renders obvious limitation 8[d] of Claim 8. EX1002, ¶¶174-176. McFadden discloses that originators and recipients client computers are provided with a “rule construction form” and/or an “entry form” through which the user is prompted to enter data. *See* Sections VIII.A.2, VIII.A.3, VIII.A.4. McFadden discloses that, depending on the topics selected, different entry forms are “presented to the user.” EX1004, 7:5-7, 6:11-14.

f. 8[e]: accepting input data from the client computer and entering the input data into an electronic message management database of the message management system.

McFadden discloses or renders obvious limitation 8[e] of Claim 8. EX1002, ¶¶177-179. McFadden discloses that data received through the data user interface and the entry sub-system may be received through a “rule construction form” and/or an “entry form.” *See* Sections VIII.A.2, VIII.A.3, VIII.A.4. McFadden also discloses that data received through the “rule construction form” and/or an “entry form” is stored in the information storage sub-system 195 and data sub-system 140, collectively representing the claimed “electronic message management database.” EX1004, 4:66-5:3, 5:43-48, 10:40-56; EX1002, ¶178; *see also* Sections VIII.A.1.c., VIII.A.1.d, VIII.A.1.f, VIII.A.1.g.

9. Claim 9: The method of claim 8, wherein the prompting step includes providing an input form to the client computer.

McFadden discloses or renders obvious Claim 9. EX1002, ¶¶180-182. McFadden discloses that originators and recipients are provided with a “rule construction form” and/or an “entry form” through which the user is prompted to enter data. *See* Sections VIII.A.2, VIII.A.3, VIII.A.4; EX1004, 6:9-14, 6:66-7:7.

10. Claim 10: The method of claim 8, wherein the prompting step includes providing an input form to the client computer, the input form being at least one input form selected from the group consisting of a recipient profile form, a messenger profile form, and a message input form.

McFadden discloses or renders obvious Claim 10. EX1002, ¶¶183-185. McFadden discloses that originators and recipients may be prompted with a “rule construction form” for entering recipient or messenger profile rules and/or an “entry form” for entering data that “describe[s] the message.” *See* Sections VIII.A.2, VIII.A.3, VIII.A.4; EX1004, 6:33-42, 5:15-22.

11. Claim 11: The method of claim 8, wherein the accepting step includes entering the input data into an electronic message management database comprising a recipient profile database, a messenger profile database, and a message database.

McFadden discloses or renders obvious Claim 11. EX1002, ¶¶186-190. McFadden discloses that data received through the “data user interface” and the

“entry sub-system” is stored in the “profile database 310,” the “rule database 330,” and “message and content database 410.” *See* Sections VIII.A.1.d, VIII.A.1.f, VIII.A.1.g. The profile database and the rule database store profile data and profile rules data for both recipients and messengers, and thus each represent a recipient profile database and a messenger profile database, as claimed. *See* Sections VIII.A.1.d and VIII.A.1.f; EX1004, 6:66-7:1. The message and content database stores message data files, and thus represents the claimed message database. *See* Section VIII.A.1.g.

Alternatively, profile database 310 may represent the claimed messenger profile database and rule database 330 may represent the claimed recipient profile database. *See* Section VIII.A.1.j; EX1004, 10:30-33 (profile data on originator retrieved from profile database 310), 10:56-61 (recipient profile rules retrieved from rule database 330).

Alternatively, it would have been obvious to a POSITA that profile data for messengers and for recipients could be stored in different databases, subparts, or tables of either the profile database 310 or the rule database 330. EX1002, ¶189. A POSITA would understand that data can be divided between different sub-databases without changing the nature or functioning of the system. *Id.* Databases are routinely organized into subparts, and that the exact organization of data between

different subparts of a database are routine design choices which would not affect the overall functionality of the system. *Id.* Subdividing a single database into multiple subparts would have been a straightforward design change which could easily be implemented by one skilled in the art with a reasonable expectation of success. *Id.*

12. Claim 14: The electronic message management system of claim 1, wherein the individual message generator communicates with the database to identify messages and messenger parameters that are compatible with a recipient profile, and to configure the messages for delivery to the recipient.

McFadden discloses or renders obvious Claim 14. EX1002, ¶¶191-196.

McFadden discloses that the individual message generator (matching subsystem) accesses message rules, messenger profile data, and recipient profile rules in the database to identify messages compatible with a recipient and to configure the messages for delivery. EX1002, ¶192.

Figure 6 in McFadden explains the process to “match” a message to a recipient or recipients:

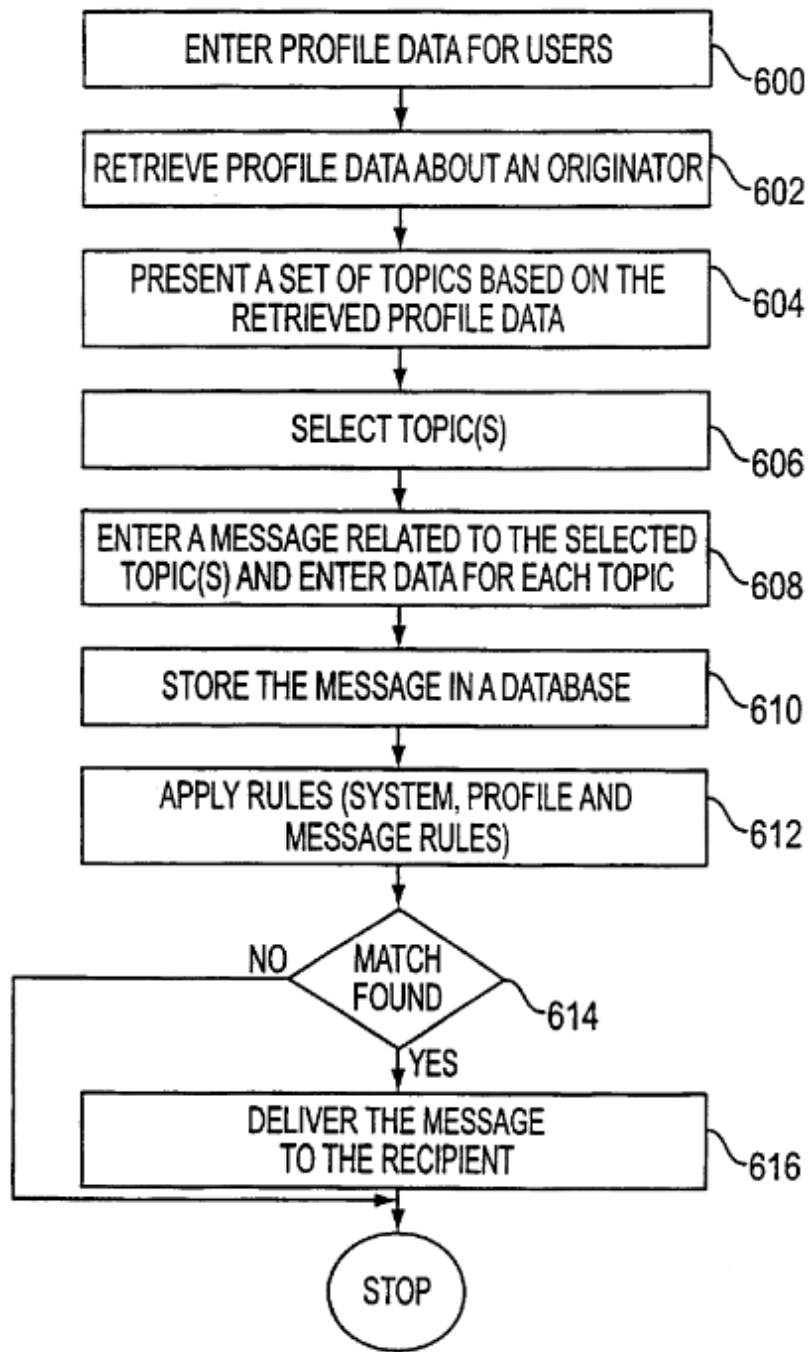


FIG. 6

EX1004, Fig. 6.

Figure 6 shows that, to identify messages compatible with a recipient, the system retrieves profile data about the messenger at step 602. EX1002, ¶193. This data is retrieved from the “profile database 310 of the data sub-system 140.” *Id.*, 10:30-33. At step 612, the matching sub-system uses “message rules” to identify a “preliminary set of recipients’ profiles.” EX1004, 7:45-51, 10:55-61. Then recipient “profile rules” are used to “further refine[] this set” and “determine which recipients should receive the message.” *Id.*, 7:52-55. The message is also configured for delivery based on the profile rules “for properly routing the message.” EX1004, 10:55-57. The matching sub-system accesses the data sub-system 140 to obtain profile rules regarding the delivery parameters for the message. *Id.*, 10:56-61, Fig. 1; EX1002, ¶193. The matching sub-system then works with the delivery sub-system to send the individual message. EX1004, 7:57-65, Fig. 1; EX1002, ¶194. Thus, message rules, messenger profile data, and recipient profile rules are retrieved from the database and used to identify messages compatible with a recipient and to configure individual messages for delivery. EX1002, ¶194.

Alternatively, a combined matching-delivery sub-system in McFadden could represent the claimed individual message generator, as explained above. *See* Section VIII.A.1.h; EX1002, ¶195. The combined matching-delivery sub-system communicates with the database to retrieve profiles and rules to identify messages

and messenger parameters compatible with a recipient profile. EX1004, 10:19-23, 10:53-56, 7:42-56. The combined matching-delivery sub-system also communicates with the database to configure for delivery the individual message pursuant to the delivery parameters found in the rules database. EX1004, 7:57-65, Fig. 3, 10:55-65.

- 13. Claim 15: The electronic message management system of claim 1, wherein the individual message generator generates and sends the individual message via a means selected from the group consisting of; electronic mail, voice telephone, facsimile transmission, and digital transmission.**

McFadden discloses or renders obvious Claim 15. EX1002, ¶¶197-200.

McFadden discloses that the matching sub-system (individual message generator) retrieves the message from storage, applying stored rules to the message to identify the recipients for the message, and thus generating the individual message. EX1004, 7:42-58, 10:53-60, 11:51-58, Fig. 1, Fig. 4; EX1002, ¶198. The matching sub-system then works with the delivery sub-system to send the individual message “via e-mail, fax, ... Internet protocols.” EX1004, 7:57-65, Fig. 1 (arrows from databases to matching sub-system, which provides delivery parameters to delivery sub-system); EX1002, ¶198.

Alternatively, a combined matching-delivery sub-system in McFadden could represent the claimed individual message generator, as explained above. *See* Section VIII.A.1.h; EX1002, ¶199. In the combined sub-system, the delivery function receives a “list of recipients,” and sends the individual messages to each recipient, e.g., “via e-mail, fax ... Internet protocols.” EX1004, 7:57-65; EX1002, ¶199.

14. Claim 16: The electronic message management system of claim 1, wherein the individual message generator generates the individual message and sends the individual message via a means selected from the group consisting of an electronic means and a hardcopy means.

McFadden discloses or renders obvious Claim 16. EX1002, ¶¶201-203.

McFadden discloses that the matching sub-system (individual message generator) retrieves the message from storage, applying stored rules to the message to identify the recipients for the message, and thus generating the individual message. EX1004, 7:42-58, 10:53-60, 11:51-58, Fig. 1, Fig. 4; EX1002, ¶201. The matching sub-system then works with the delivery sub-system to send the individual message “via e-mail, fax, postal mail, Internet protocols, wireless electronic delivery, sonar, radar, [or] foot messenger.” EX1004, 7:57-65, Fig. 1; EX1002, ¶201. A POSITA would understand that “e-mail” and “wireless electronic delivery” are electronic means for sending messages, and would understand “fax, postal mail”

and “foot messenger” to be delivery by a hardcopy means. EX1002, ¶201. The “electronic means” and “hardcopy means” of Claim 16 should not be construed as means-plus-function limitations because these terms are “used in common parlance ... to designate structure.” *Skky, Inc. v. MindGeek, s.a.r.l.*, 859 F.3d 1014, 1020 (Fed. Cir. 2017).

Alternatively, a combined matching-delivery sub-system in McFadden could represent the claimed individual message generator, as explained above. *See* Section VIII.A.1.h; EX1002, ¶202. In the combined sub-system, the delivery function receives a “list of recipients,” and sends the individual messages to each recipient, e.g., “via e-mail, fax, [or] postal mail.” EX1004, 7:57-65; EX1002, ¶202.

15. Claim 17: The electronic message generator system of claim 16, wherein the individual message generator generates the individual message and sends the individual message via an electronic means selected from the group consisting of electronic mail, voice telephone, facsimile transmission, digital transmission, computer network, voice mail, SMS, telex, and wireless transmission.

McFadden discloses or renders obvious Claim 17. EX1002, ¶¶204-207. McFadden discloses that the matching sub-system (individual message generator) retrieves the message from storage, applying stored rules to the message to identify the recipients for the message, and thus generating the individual message. EX1004,

7:42-58, 10:53-60, 11:51-58, Fig. 1, Fig. 4; EX1002, ¶205. The matching sub-system then works with the delivery sub-system to send messages “via e-mail . . . Internet protocols.” EX1004, 7:57-65, Fig. 1; EX1002, ¶205.

Alternatively, a combined matching-delivery sub-system in McFadden could represent the claimed individual message generator, as explained above. *See* Section VIII.A.1.h; EX1002, ¶206. In the combined sub-system, the delivery function receives a “list of recipients,” and sends the individual messages to each recipient, e.g., “via e-mail.” EX1004, 7:57-65; EX1002, ¶206.

16. Claim 18: The electronic message generator system of claim 16, wherein the individual message generator generates the individual message and sends the individual message via a hardcopy means selected from the group consisting of paper media, magnetic media, and optical media.

McFadden discloses or renders obvious Claim 18. EX1002, ¶¶ 208-211. McFadden discloses that the matching sub-system (individual message generator) retrieves the message from storage, applying stored rules to the message to identify the recipients for the message, and thus generating the individual message. EX1004, 7:42-58, 10:53-60, 11:51-58, Fig. 1, Fig. 4; EX1002, ¶209. The matching sub-system then works with the delivery sub-system to send the individual message via “fax, postal mail, . . . foot messenger.” EX1004, 7:57-65, Fig. 1; EX1002, ¶209. A

POSITA would understand that delivery by fax, postal mail or foot messenger may be in the form of hardcopy paper media. EX1001, 1:27-30; EX1002, ¶209. A POSITA would understand that fax is a hardcopy delivery means because it results in the delivery of paper media. EX1002, ¶209.

Alternatively, a combined matching-delivery sub-system in McFadden could represent the claimed individual message generator, as explained above. *See* Section VIII.A.1.h; EX1002, ¶210. In the combined sub-system, the delivery function receives a “list of recipients,” and sends the individual messages to each recipient, e.g., via “fax, postal mail, ... [or] foot messenger.” EX1004, 7:57-65; EX1002, ¶210.

B. *Ground 2: McFadden In View Of Owens Renders Claims 1-11 and 14-18 Obvious*

For all limitations of the Challenged Claims, Ground 2 applies and incorporates the same analysis and evidence from Ground 1. Ground 2 provides further analysis and evidence for limitations 1[d] and 1[g], by applying McFadden in view of Owens.

1. Claim 1

- a. 1[d]: the profile data including delivery parameters specified by a recipient of where, when and how specific types of messages from specific messengers are delivered to the recipient,**

McFadden in view of Owens discloses or renders obvious limitation 1[d].
EX1002, ¶213-217.

Owens discloses recipient delivery parameters, including “where, when and how,” for specific types of messages. Owens explains that “[m]essage receivers” have “options that allow them to manage the retrieval of messages.” EX1005, 10:9-10. Owens then explains that the “options available are determined by the type of message received from the sender.” EX1005, 10:51-55. The options for recipients include “where” to send the messages (EX1005, 10:24-31, 10:36-40 (option to direct “a message to an alternate device/address”)), “when” to send the messages (*id.*, (option to (1) “perform an immediate action” including forwarding the message to the destination device/address, “or (2) to have messages stored in the original communication medium format ... for later retrieval”), 10:36-42 (immediate delivery for important messages)), and “how” to send the messages (*id.*, 10:9-17 (option to “select the communication medium by which they would like to receive/retrieve their messages,” and to create “a rule for cross-media messaging ...

so that all of a message receiver's incoming messages are ... converted if necessary"), 10:39-40 (send to alternative target device)). A POSITA would understand that these options in Owens represent delivery parameters on where, when, and how messages are to be delivered to the recipient. EX1002, ¶216.

In addition, Owens discloses recipient defined rules for delivering messages "from specific messengers." Owens discloses that "filtering rules (in accordance with the filtering options selected by the receiver)" may be "based on the sender's originating telephone number or e-mail address (e.g., pager, e-mail account, fax machine, voice mailbox)." EX1005, 10:48-55. Owens further discloses that "[d]ifferent rules may be established (via options) for each sender from which a message receiver expects to receive messages." *Id.*, 15:23-25; *see also* 11:62-65 ("options based on who sent the message (as determined by the originator's e-mail address.)"). A POSITA would understand that such filtering options in Owens allow a user to direct the flow of messages based on "specific messengers." EX1002, ¶217.

Motivation to Combine

A POSITA would be motivated to combine McFadden with Owens. EX1002, ¶¶218-221. Both McFadden and Owens employ user-defined rules to filter and route messages between senders and receivers. The object of the invention in McFadden is to employ filtering based on user-defined rules to direct the flow of messages

between senders and receivers. EX1004, 2:1-10. Owens also employs such filtering based on user-defined rules to direct the flow of messages between senders and receivers. EX1005, Abstract; EX1002, ¶218.

To address the problem of managing the flow of messages between senders and receivers, both McFadden and Owens provide the solution of filtering messages by employing rules that are (a) based on preferences that are entered by users, (b) then stored in a database, and (c) then accessed for directing the flow of messages. EX1004, 6:33-35, 5:33-38, 10:29-31; EX1005, 8:22-26, 15:43-49, 15:18-37; EX1002, ¶219. And McFadden and Owens allow both senders and receivers to use their respective rules to direct the flow of messages. EX1005, Abstract; EX1004, Abstract; EX1002, ¶219.

More particularly, McFadden and Owens both address managing where, when, and how messages are to be delivered. EX1002, ¶220. McFadden discloses delivery parameters on where to send the message (EX1004, 7:61-65 (“Messages may be transmitted via e-mail, fax, postal mail”)), when to send (*id.*, 7:61-67 (transmitted now or logged “for later retrieval”)), and how to send the message to the recipient (*id.*, 7:57-67 (“configuration profiles . . . determine how to transmit the message”). A POSITA would be motivated to enhance McFadden with Owens because Owens provides further attributes for the same delivery parameters of

“where, when, and how,” including by the use of “addresses” (the claimed “where”), immediate forwarding for important messages (the claimed “when”), and the use of alternate target devices, such as via email (the claimed “how”). EX1005, 10:24-56; EX1002, ¶220. A POSITA would look to Owens as an enhancement of the McFadden delivery parameters because Owens, like McFadden, seeks to employ user-defined rules to direct the flow messages between senders and receivers. EX1002, ¶220. A POSITA would understand that additional attributes (e.g., a specific address, a particular target device, or immediate delivery for urgent messages) would enhance functionality in McFadden and would be a practical extension of its existing delivery parameters for users. *Id.* McFadden discloses delivery parameters, where Owens provides more attributes for the same delivery parameters. *Id.*

In addition, McFadden and Owens both address filtering based on specific messengers. McFadden discloses user-defined rules for filtering types of messages “from specific messengers.” EX1004, 11:59-60 (“The first user has a set of “Profile Rules” indicating what types of posts, and from whom, he would like to receive”), 11:60-67. A POSITA would be motivated to enhance McFadden with Owens because Owens provides further attributes for the same messenger-based filtering, including filtering based on the email addresses of specific messengers. EX1005,

10:48-56; EX1002, ¶221. A POSITA would look to Owens as an enhancement of the McFadden messenger-based filtering because Owens, like McFadden, seeks to employ user-defined rules to direct the flow of messages between senders and receivers. EX1002, ¶221. A POSITA would understand that additional attributes (e.g., a messenger's email address) would enhance McFadden and would be a practical extension of its existing messenger-based filtering for users. *Id.* McFadden discloses filtering for specific messengers, where Owens provides additional attributes for the same filtering approach. *Id.*

Reasonable Expectation of Success

A POSITA would have perceived no technological obstacle in implementing the attributes of Owens into the McFadden system. EX1002, ¶¶222-223. McFadden provides a "rule construction form" that allows users to enter rules as Boolean conditions and/or based on selection of actions to be completed. EX1004, 6:43-59. In particular, the user can employ any "operands for character and numeric data" alongside logical operators "AND" or "OR." *Id.*, 6:45-55. The user can also apply Boolean conditions with "contains," "starts with," or "ends with." *Id.* A POSITA would know to apply the Boolean conditions of McFadden to specify the Owens attributes, including by using a condition of "contains" and the messenger's email address. EX1002, ¶222. Second, in McFadden, "rule construction also involves the

selection of actions to be completed if the rule evaluates ‘true.’” EX1004, 6:56-59. The Owens attribute of immediate delivery for important messages can be implemented by using the selection of actions in McFadden’s rule construction form. EX1002, ¶222. A POSITA would know how to create a rule in McFadden where if a message is marked urgent, then the action to be completed is sending the message immediately. *Id.*

A POSITA would have had a reasonable expectation of success because the additional attributes of Owens do not change the underlying structure of the McFadden system, which already includes (a) use of an online interface for entering user-based rules, (b) storage of such rules in a database, and (c) access to the stored rules in order to match and route messages to recipients. EX1002, ¶223. First, a POSITA would understand that the Owens attributes could be added to the McFadden online interface, for example, by using text boxes with additional Boolean conditions or drop down menus with additional selections of actions. *Id.* Both Owens and McFadden disclose systems implemented on general-purpose Internet-connected computers. EX1004, 4:37-40; EX1005, 4:44-51. Second, a POSITA would understand that the additional attributes of Owens may be stored in the same data tables as the corresponding delivery parameters in McFadden. *Id.* Third, a POSITA would understand that implementing the additional attributes, such

as an address for a device or immediate delivery, would have been an obvious, practical extension of the functionality of McFadden's existing system, which is already operable to deliver a message to a recipient. *Id.*; EX1004, 7:57-67. In sum, the additional attributes for delivery parameters in Owens do not change the structure of the McFadden system, and a POSITA would understand that the enhancement from Owens would predictably result in a refined set of McFadden-Owens attributes for the existing system of delivery parameters in McFadden. EX1002, ¶223.

- b. 1[g]: an individual message generator in communication with the database and operative to access and utilize data and files from the database to generate an individual message to be sent to the recipient specified by the messenger via the global communications network according to the delivery parameters, and**

McFadden in view of Owens discloses or renders obvious limitation 1[g]. EX1002, ¶¶225-227.

Owens discloses a recipient being specified by a messenger. EX1002, ¶227. Specifically, Owens explains that a message sender “who wishes to send an e-mail message to a message receiver,” may do so via the Internet, whereby the sender “composes the message on the computer 20, supplies an identifier for the message receiver (such as a member number), and sends the message.” EX1005, 7:14-25. A POSITA would understand that, by supplying an “identifier for the message

receiver,” the email sender in Owens is specifying the recipient, whether by name, email address, and/or an identifying number. EX1002, ¶227.

As discussed above, a POSITA would be motivated to combine McFadden with Owens because both McFadden and Owens employ user-defined rules to route messages between senders and receivers. *See* Section VIII.B.1.a; EX1002, ¶228. McFadden explains that to target interested recipients, the originator may enter “message rules to reflect the originator’s target audience.” *Id.*, 10:44-48, 11:51-57; *see also id.*, 14:9-12 (“a message provider will be able to select a set of computer users that the message provider would like to receive the message”). A POSITA would be motivated to use the Owens recipient identifier to enhance McFadden’s targeting of recipients. EX1002, ¶228. The object of the invention in McFadden is to employ user-defined rules “for distributing information between an originator and at least one end-user.” EX1004, 2:1-10. A POSITA would understand that the Owens identifier (e.g., a recipient’s email address, name or other identifier) would be practical to use for McFadden’s “message rules” to specify “at least one end-user.” *Id.*; EX1002, ¶228. A POSITA would also have been motivated to incorporate the identifier from Owens to give the messenger more control over the distribution of messages. EX1002, ¶228.

As discussed above, a POSITA would have perceived no technological obstacle and would have had a reasonable expectation of success because Owens would not change the underlying structure of the McFadden system, which includes an online interface, database storage, and access to database storage for routing messages. *See* Section VIII.B.1.a. In particular, a POSITA would have perceived no technological obstacle in implementing the recipient identifier of Owens into the McFadden system. EX1002, ¶229. McFadden provides a “rule construction form,” which allows users to enter rules via Boolean conditions in order to route messages. EX1004, 6:43-59 (use of any “operands for character and numeric data” with “contains”). A POSITA would know to apply the Boolean conditions of McFadden to specify the Owens recipient identifier, including by using a condition of “contains” and the recipient’s email address, name, or other identifier. EX1002, ¶229.

A POSITA would have had a reasonable expectation of success because a POSITA would understand that the Owens recipient identifier could be added to the McFadden online interface, for example, by using text boxes with additional Boolean conditions, and may be stored in the same data tables for the corresponding “message rule” in McFadden. EX1002, ¶230. Further, a POSITA would understand that implementing the Owens recipient identifier would have been a practical use of

the functionality of McFadden’s existing system, which is already operable to deliver a message to a recipient “via email” and/or “Internet protocols.” *Id.*; EX1004, 7:57-67.

IX. THE DISCRETIONARY FACTORS FAVOR INSTITUTING TRIAL

A. The *Fintiv* Factors Favor Institution

There is no trial date set (and not even a case schedule entered) for the district court action that Patent Owner filed against Adobe. EX1009. Without a trial date set, there is no need to engage in a *Fintiv* analysis. *Beckman Coulter, Inc. v. Sirigen II Ltd.*, IPR2022-01206, Paper 12 at 17 (PTAB Jan. 6, 2023) (“The facts and reasoning of *Fintiv* are, at a minimum, only applicable to cases in which the district court has *actually set* a trial date”). Nevertheless, consideration of the factor analysis in *Apple Inc. v. Fintiv Inc.*, IPR2020-00019, Paper 11 (PTAB March 20, 2020) (precedential) and the Director’s June 21, 2022 Memorandum on Interim Procedure (“Director’s Memo”) weigh in favor of institution.

Factor 1 is neutral given there is no evidence that the district court will or will not grant a stay if institution occurs. Factor 2 favors institution because no trial date is set, and any trial date set in the future would occur after the Board issues a final written decision given the median time to trial in the district coupled with the over 514 other patent cases pending before the same judge. EX1010, 2 (median time to

trial for civil actions in the WDTX is 28.2 months); EX1011. Factor 3 favors institution because neither the court nor the parties have invested significantly in the case, which has no schedule and has involved no discovery to date. Factor 4 favors institution because, in the district court, Adobe expects to rely on invalidity positions based on different grounds. Adobe stipulates that if this Petition is instituted, Adobe will not assert invalidity based on the instituted grounds in the district court. *Sand Revolution II, LLC v. Continental Intermodal Group – Trucking, LLC*, IPR2019-01393, Paper 24 at 12 (PTAB Jun. 16, 2020). Factor 5 is neutral, where the parties are involved in the district court litigation. Factor 6 favors institution because, as shown above, the Petition’s merits are “compelling,” and this “alone demonstrates that the PTAB should not discretionarily deny institution under *Fintiv*.” Director’s Memo at 3-5.

B. The *General Plastic* Factors Favor Institution

The *General Plastic* factors favor institution of Adobe’s Petition, which is Adobe’s first and only petition challenging the ’920 Patent. *General Plastic Industrial Co., Ltd., v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 (PTAB Sept. 6, 2017) (precedential at Section II.B.4.i). Claims of the ’920 patent are challenged by other, unrelated parties in *Unified Patents, LLC v. Peter Henrik Pedersen*, IPR2023-00029 (filed October 14, 2022; instituted May 15, 2023)

(“Unified petition”) and in *Oracle Corp. v. Peter Henrik Pedersen*, IPR2023-00867 (filed April 24, 2023) (“Oracle petition”).

Factor 1 favors institution because the Unified petition and the Oracle petition were filed by unrelated parties. Adobe had no input in either the Unified petition or the Oracle petition, and Adobe was not even aware of these petitions until after they were filed. This favors institution. *Samsung Elecs. Co., Ltd. v. MemoryWeb, LLC*, IPR2022-00222, Paper 12 at 10-11 (PTAB June 13, 2022) (Petitioner “not related to Unified Patents or Apple because there is no evidence that it controls Unified Patents or Apple and its interests differ from Unified Patents and Apple.”). Further, having a membership to Unified Patents does not change Adobe’s “lack of relationship” with Unified Patents. *Tesla, Inc. v. Charge Fusion Technologies, LLC*, IPR2023-00062, Paper 13 at 9 (PTAB May 11, 2023) (“Board decisions have routinely determined Factor 1 does not weigh in favor of exercising discretion to deny institution when Unified was the earlier challenger and the Petitioner in the second Petition was a member of Unified.”) (collecting cases).

Factor 2 favors institution because (1) Adobe is an unrelated party to petitioners of the Unified and Oracle petitions; (2) Adobe had no input in the Unified or Oracle petitions; and (3) Adobe asserts different prior art than the Unified and Oracle petitions. *Shenzhen Apaltek Co., Ltd. v. Asetek Danmark A/S*, IPR2022-

01318, Paper 7 at 11 (PTAB Feb. 6, 2023) (when petitioner is an unrelated party to the prior petitioners, “the second, fourth, and fifth *General Plastic* factors have a limited relevance”); *Google LLC v. Neonode Smartphone LLC*, IPR2021-01041, Paper 19 at 12 (PTAB Jan. 13, 2022) (factor two “is of limited relevance” when petitioner uses different prior art than the prior petitions).

Factor 3 favors institution. The Oracle petition was recently filed and therefore, no patent owner’s preliminary response or institution decision has occurred.

Adobe is aware of the preliminary response and institution decision in the Unified IPR, but the Unified IPR advances different prior art than the Adobe Petition, and the Unified IPR challenges only five of the sixteen claims at issue in the Adobe Petition. As such, Adobe is not seeking a roadmap because most challenged claims and all the prior art do not overlap. *Samsung*, IPR2022-00222, Paper 12 at 11 (finding no roadmap based on two prior petitions because third petitioner relied on different prior art, and challenged different claims from one of the prior petitions). Further, this is Adobe’s first and only petition, and therefore, Adobe is not strategically staging successive petitions.

Factors 4 and 5 favor institution. These factors favor institution because neither Oracle nor Unified Patents are related to Adobe. *Shenzhen*, IPR2022-01318,

Paper 7 at 11 (for unrelated petitioner, “fourth, and fifth *General Plastic* factors have a limited relevance”).

The Oracle petition was filed on April 24, 2023, only a few weeks ago in advance of Oracle’s deadline. The time elapsed between the Oracle petition and this Petition is impacted by the fact that the bar date for the Oracle petition is earlier than Adobe’s bar date.

The Unified petition challenges only 5 claims of the ’920 patent, whereas the Adobe’s Petition challenges 16 claims. The time elapsed between the Unified petition and this Petition is impacted by the fact that the district court action against Adobe has no case schedule and no invalidity contentions deadline, so the one-year bar date for this Petition provides the only current deadline for asserting invalidity positions.

Given the upcoming bar date for this Petition, Adobe conducted a prior art search, recently discovered the asserted prior art, and promptly prepared its petition.

Factors 6 and 7 are either neutral or favor institution. Adobe’s Petition promotes efficiency because it challenges numerous remaining claims of the ’920 patent that the Unified petition does not. And while the Oracle petition has some overlapping prior art with the Unified petition, Adobe’s Petition presents entirely different prior art from either the Oracle or Unified petitions, showcasing this

Petition's compelling merits.

C. Section 325 Denial Should Not Apply

The Board should not exercise its discretion under 35 U.S.C. §325(d) to deny institution. There are no references presented in this Petition that were previously before the Office.

X. CONCLUSION

For the reasons given above, Petitioner requests cancellation of the challenged claims.

XI. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8

A. *Real Parties-in-Interest*

Petitioner identifies itself as the sole real party-in-interest.

B. *Related Matters*

To the best of Adobe's knowledge, the '920 patent has been involved in the following district court litigations:

- *Pedersen v. Zoho Corp.*, No. 1:23-CV-00071 (W.D. Tex.).
- *Pedersen v. J2 Global, Inc.*, No. 6:21-CV-01155 (W.D. Tex.).
- *Pedersen v. Microsoft Corp.*, No. 6:21-CV-01154 (W.D. Tex.).
- *Pedersen v. Mailgun Technologies, Inc.*, No. 6:21-CV-01153 (W.D. Tex.).
- *Pedersen v. Google LLC*, No. 6:21-CV-01152 (W.D. Tex.).

- *Pedersen v. Yahoo! Inc.*, No. 6:21-CV-01308 (W.D. Tex.).
- *Pedersen v. Oracle Corp.*, No. 6:22-CV-00410 (W.D. Tex.).
- *Pedersen v. Salesforce.com Inc.*, No. 6:22-CV-00409 (W.D. Tex.).
- *Pedersen v. Zoho Corp.*, No. 6:22-CV-00408 (W.D. Tex.).
- *Pedersen v. SAP America, Inc.*, No. 6:22-CV-00591 (W.D. Tex.).
- *Pedersen v. Madwire, LLC*, No. 6:22-CV-00590 (W.D. Tex.).
- *Pedersen v. Intuit, Inc.*, No. 6:22-CV-00588 (W.D. Tex.).
- *Pedersen v. Aurea Software, Inc.*, No. 6:22-CV-00584 (W.D. Tex.).
- *Pedersen v. Adobe Inc.*, No. 6:22-CV-00583 (W.D. Tex.).
- *Pedersen v. Ziff Davis, Inc.*, No. 6:22-CV-00597 (W.D. Tex.).
- *Pedersen v. Upland Software, Inc.*, No. 6:22-CV-00594 (W.D. Tex.).
- *SAP America Inc. v Pedersen*, No. 6:22-CV-01534 (N.D. Tex.).
- *Pedersen v. Wix.com, Inc.*, No. 6:22-CV-00925 (W.D. Tex.).
- *Pedersen v. Monday.com, Inc.*, No. 6:22-CV-00923 (W.D. Tex.).
- *Pedersen v. Constant Contact, Inc.*, No. 6:22-CV-00922 (W.D. Tex.).
- *Pedersen v. Blackbaud, Inc.*, No. 6:22-CV-00921 (W.D. Tex.).
- *Pedersen v. Zendesk, Inc.*, No. 6:22-CV-00927 (W.D. Tex.).

The '920 patent is being challenged in IPR2023-00029 filed by Unified Patents and IPR2023-00867 filed by Oracle Corporation. IPR2023-00029 was instituted on March 15, 2023.

C. *Lead and Backup Counsel*

Lead Counsel	Back-Up Counsel
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D. *Service Information*

Please address all correspondence to lead and back-up counsel at the addresses shown above. Petitioner consents to electronic service by e-mail.

E. *Power of Attorney*

A power of attorney is filed herewith according to 37 C.F.R. §42.10(b).

XII. FEES

Petitioner concurrently electronically submit the required fees for this Petition. The Board is authorized to charge Arnold & Porter Kaye Scholer LLP's deposit account, No. 50-2387, for any fee deficiency.

Date: June 1, 2023

Respectfully submitted,

/David A. Caine/

David A. Caine

Reg. No 52,683

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the foregoing Petition for *Inter Partes* Review contains 13,975 words, excluding those portions identified in 37 C.F.R. §42.24(a), as measured by the word-processing system used to prepare this paper.

/David A. Caine/
David A. Caine
Reg. No 52,683

CERTIFICATE OF SERVICE

I certify that on June 1, 2023, I caused a true and correct copy of the foregoing Petition for *Inter Partes* Review of U.S. Patent No. 6,965,920 and supporting exhibits to be served via international mail on the Patent Owner at the following correspondence address of record as listed on Patent Center:

Peter Pedersen
Gammel Hareskovej 285
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A courtesy copy was also sent via electronic mail to Patent Owner's litigation counsel listed below:

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