UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner

v.

MOTION OFFENSE, LLC,
Patent Owner

Patent No. 10,613,737

PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 10,613,737

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I. INTRODUCTION

Google LLC ("Petitioner") requests *inter partes* review ("IPR") of claims 1-5, 13, and 14 ("the challenged claims") of U.S. Patent No. 10,613,737 ("the '737 patent") (EX1001), which is purportedly assigned to Motion Offense, LLC ("Patent Owner" or "PO"). For the reasons below, the challenged claims should be found unpatentable and canceled.

II. MANDATORY NOTICES

Real Parties-in-Interest: Pursuant to 37 C.F.R. § 42.8(b)(1), Petitioner identifies the following as the real parties-in-interest: Google LLC.[1]

Related Matters: The '737 patent is at issue in the following civil actions: *Dropbox, Inc. v. Motion Offense, LLC*, Case No. 6:20-cv-00251-ADA (W.D. Tex.); *Motion Offense, LLC v. Google LLC*, Case No. 6:21-cv-00514-ADA (W.D. Tex.).

The '737 patent originated from U.S. Patent Application No. 16/380,975 ("the '975 application"), filed on April 10, 2019, and claims priority to U.S. Patent Application No. 13/624,906 ("the '906 application"), filed on September 22, 2012. (EX1001, Cover ("Related U.S. Application Data").) Petitioner is concurrently filing

[1] Google LLC is a subsidiary of XXVI Holdings Inc., which is a subsidiary of Alphabet Inc. XXVI Holdings Inc. and Alphabet Inc. are not real parties-in-interest to this proceeding.

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an IPR petition challenging U.S. Patent No. 10,303,353, which issued from U.S. Patent Application No. 15/984,407, of which the '975 application is a continuation, and is at issue in the above-noted civil actions.

The '737 patent is also related to U.S. Patent No. 11,044,215 ("the '215 patent"), which is at issue in *Motion Offense, LLC v. Google LLC*, Case No. 6:21-cv-00514-ADA (W.D. Tex.) and *Motion Offense, LLC v. Dropbox, Inc.*, Case No. 6:21-cv-00758-ADA (W.D. Tex.). Petitioner is concurrently filing an IPR petition challenging the '215 patent.

Counsel and Service Information: Lead counsel: Naveen Modi (Reg. No. 46,224). Backup counsel: (1) Joseph E. Palys (Reg. No. 46,508), and (2) Phillip Citroën (Reg. No. 66,541).

Service information is Paul Hastings LLP, 2050 M Street NW, Washington, DC 20036, Tel.: 202.551.1700, Fax: 202.551.1705, Email: PH-Google-MotionOffense-IPR@paulhastings.com. Petitioner consents to electronic service.

III. PAYMENT OF FEES

The PTO is authorized to charge any fees due during this proceeding to Deposit Account No. 50-2613.

IV. GROUNDS FOR STANDING

Petitioner certifies that the '737 patent is available for review, and Petitioner is not barred/estopped from requesting review on the grounds herein.

V. PRECISE RELIEF REQUESTED

A. Claims for Which Review Is Requested

Petitioner requests review of claims 1-5, 13, and 14 ("the challenged claims") of the '737 patent and cancellation of those claims as unpatentable.

B. Statutory Grounds of Challenge

The challenged claims should be canceled as unpatentable in view of the following grounds:

Ground 1: Claims 1-5, 13, and 14 are unpatentable as obvious under 35 U.S.C. § 103 (pre-AIA) over U.S. Patent No. 8,825,597 to Houston et al. ("Houston") (EX1005) in view of U.S. Patent No. 9,633,125 to Garcia et al. ("Garcia") (EX1006).

For purposes of this proceeding only, Petitioner assumes the earliest effective filing date of the '737 patent is September 22, 2012, which is the filing date of the '906 application, to which the '737 patent claims priority.

Houston issued from an application filed August 13, 2010. Garcia issued from an application filed August 10, 2012. Therefore, Houston and Garcia each qualify as prior art at least under 35 U.S.C. § 102(e)(2) (pre-AIA).

VI. LEVEL OF ORDINARY SKILL

A person of ordinary skill in the art as of the claimed priority date of the '737 patent ("POSITA") would have had a bachelor's degree in electrical engineering,

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computer engineering, computer science, or a related field, or an equivalent technical degree or equivalent work experience, and at least two years of experience in the field of software development.[2] More education can supplement practical experience and vice versa. (EX1002 ¶¶19-20.)

VII. OVERVIEW OF THE '737 PATENT

The '737 patent relates to "sharing a data object in a data store via a communication" without including an attachment. (EX1001, Abstract, 2:10-11; EX1002 ¶¶21-27.) The exchange of data (*e.g.*, folders and their content) occurs via a communication between two nodes (*e.g.*, computers). (EX1001, FIG. 5, 16:57-67, 17:20-36.)

Specifically, the '737 patent describes a "Second Node" sharing a data object. (*Id.*, FIG. 6D, 28:12-15.) To do so, a user of Second Node can create an email message identifying the data object. (*Id.*, 18:31-34, 28:12-34.) The '737 patent further describes how a user of Second Node can provide "one or more contactee identifier(s) identifying one or more communicants in the role of contactee(s) in the communication." (*Id.*, 18:38-42.) The user of Second Node may finally select a

[2] Petitioner submits the declaration of Dr. Henry Houh (EX1002), an expert in the field of the '737 patent. (EX1002 ¶¶1-20; EX1003.)

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"Send" button to initiate sending of the email message to the identified contactees via a network. (*Id.*, 21:58-63.)

The '737 patent describes a "First Node" receiving the email message. (*Id.*, FIG. 6B.) The user of First Node can select the data object representation in the email message to pull up a context menu from which the user can either retrieve the data object or store the data object on First Node. (*Id.*, 24:22-33.) Alternatively, the user can drag and drop the data object representation on a file explorer window to store the data object at a particular location on First Node. (*Id.*, 24:34-48.)

VIII. CLAIM CONSTRUCTION

Under *Phillips v. AWH Corp.*, claim terms are typically given their ordinary and customary meanings as understood by a POSITA at the time of the invention based on the claim language, specification, and prosecution history. 415 F.3d 1303, 1312-16 (Fed. Cir. 2005) (en banc). The Board, however, only construes the claims when necessary to resolve the controversy. *Toyota Motor Corp. v. Cellport Sys., Inc.*, IPR2015-00633, Paper No. 11 at 16 (Aug. 14, 2015). No express constructions of any claim terms are necessary to resolve this Petition. (EX1002 ¶28.)[3]

[3] Petitioner reserves all rights to raise claim construction and other arguments, including challenges under 35 U.S.C. §§ 101 or 112, in district court as relevant to

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IX. DETAILED EXPLANATION OF GROUNDS

A. Ground 1: Claims 1-5, 13, and 14 are Obvious over Houston in view of Garcia

1. Summary of Combination and Obviousness Rationale

Houston teaches or suggests all but a few of the features recited in the challenged claims. (EX1002 ¶¶29-35, 42.) As explained below, Garcia teaches the features that are not explicitly disclosed in Houston. (*Id.* ¶¶36-40, 42.) It would have been obvious to a POSITA to modify Houston to incorporate these features, as described in Garcia. (*Id.* ¶42.)

For example, Houston does not explicitly disclose "receipt [of]" / "cause generation of" "at least one email message identifying the at least one folder and including a reference to the at least one folder, without including [a file attachment with / at least one file in the at least one folder as an attachment of] the at least one email message," as recited in claims 1-3.[4] (*Id.* ¶43.) Additionally, Houston does not explicitly disclose "in response to detection of the indication to open the at least one file in the at least one folder, causing retrieval of the at least one file via the at least one network for permitting display of the at least one file at the second node," as

those proceedings. *See, e.g.*, *Target Corp. v. Proxicom Wireless, LLC*, IPR2020-00904, Paper No. 11 at 11-13 (Nov. 10, 2020).

[4] For ease of reference, claim language is underlined in the instant petition.

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recited in claim 3. (*Id.*) Nor does Houston explicitly disclose "the storage [at / of] the second node does not store any file [in the at least one folder] when the representation of the at least one folder is created," as recited in claims 1 and 2, and "when the creation of the representation of the at least one folder is caused, an additional representation on the file explorer interface is caused to be created that represents the at least one file, where the file explorer interface is displayed by a file explorer client application without a web page," as recited in claim 13. (*Id.*) These features, however, would have been obvious to a POSITA, based on the combined teachings of Houston and Garcia. (*Id.* ¶44.)

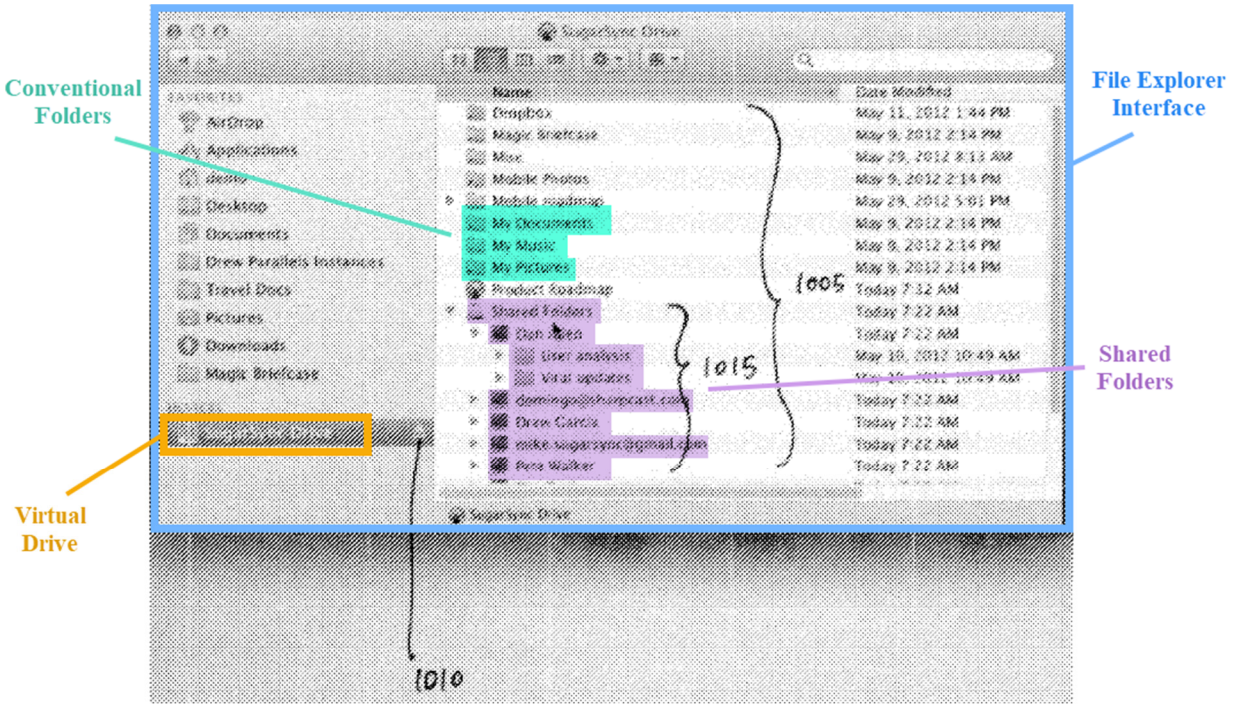
Additionally, to the extent PO argues that Houston does not disclose "cause creation, utilizing code sent to the second node to be stored on a storage at the second node and further to cooperate with a file explorer interface, of a representation of the at least one folder in a location among one or more folders on the file explorer interface," as recited in claim 1 (*see also* EX1001, claim 3), these features would have also been obvious based on the combined teachings of Houston and Garcia. (*Id.* ¶45.)

For example, Garcia discloses the use of a "virtual drive" that allows folders that are stored remotely to be viewed and accessed using a file system representation provided to the user's local client device ("utilizing code sent to the second node to be stored on a storage at the second node and further to cooperate with a file explorer

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interface"). (EX1006, 2:37-41 ("A user may be able to access, via the user interface, a virtual drive on the local device, where, via the virtual drive, a user is able to access items (e.g., files) in any object (e.g., folders), including objects located only on a remote device."), 4:51-57; EX1002 ¶46.) According to Garcia, and as shown in Figures 10 and 20a below, a representation of a folder may be created and viewed by a user ("cause creation . . . of a representation of the at least one folder in a location among one or more folders on the file explorer interface"). (EX1006, 2:66-3:3, 4:51-5:13, 5:27-35 ("A virtual drive is displayed on the user's local client device with the identified folders . . . . A user is enabled to access and edit any item within any folder displayed in the virtual drive, including folders that do not reside on the local client (step 2020)."), 6:5-27, 10:52-11:10 ("A virtual drive is a file representation view of non-file system data. That means that the folders 1005 may be viewed as if they resided on the hard drive of the local device[.]"), claim 4; EX1002 ¶46.)

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(EX1006, FIG. 10 (annotated).)

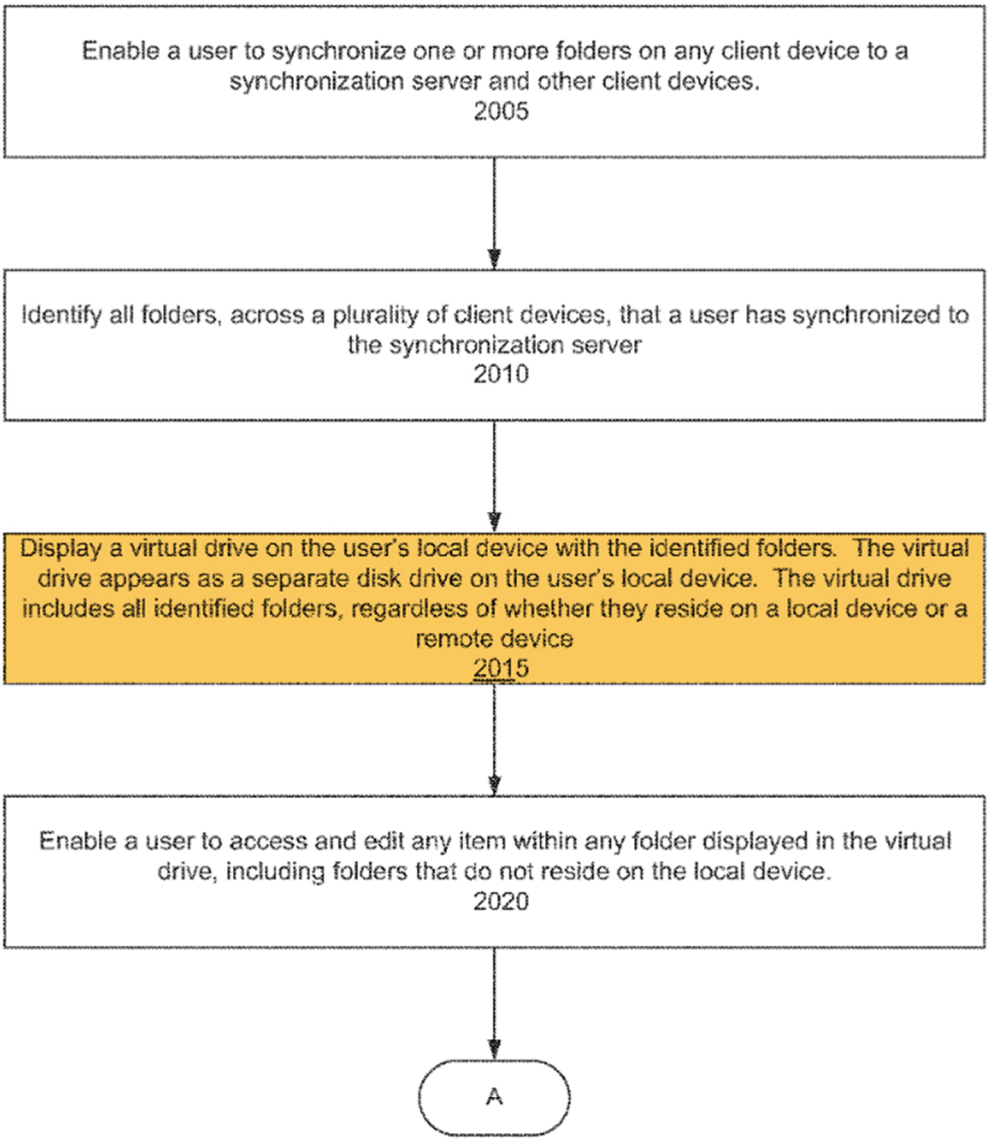
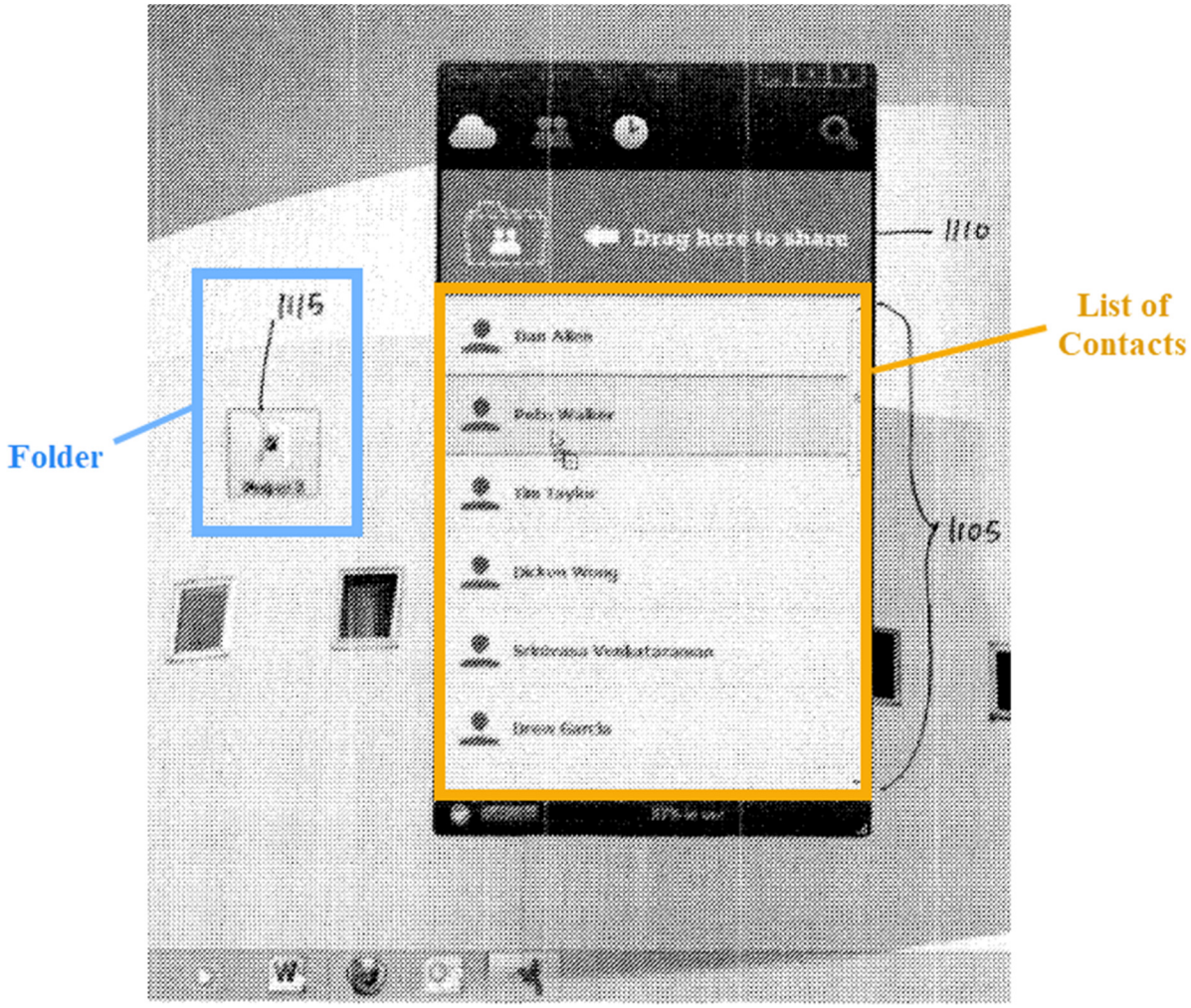


FIG. 20a

(*Id.*, FIG. 20a (annotated).)

Garcia further discloses providing a web link in an email to share such a virtual folder. (*Id.*, 10:32-40 ("The Web link tab 335 includes a list of folders or files that have been shared as a link with other users . . . and an icon 915[] places the link onto the clipboard to be copied into an email, text, or other transmittal."), 11:39-43, claim 3; EX1002 ¶¶47-48.) For example, as shown in Figure 11 below, Garcia discloses displaying a list of contacts 1105 and enabling a user to drag a folder 1115 to a particular contact, which shares the folder 1115 with the contact by automatically sending an email containing a link to the folder 1115 to that contact. (EX1006, 11:11-26.)

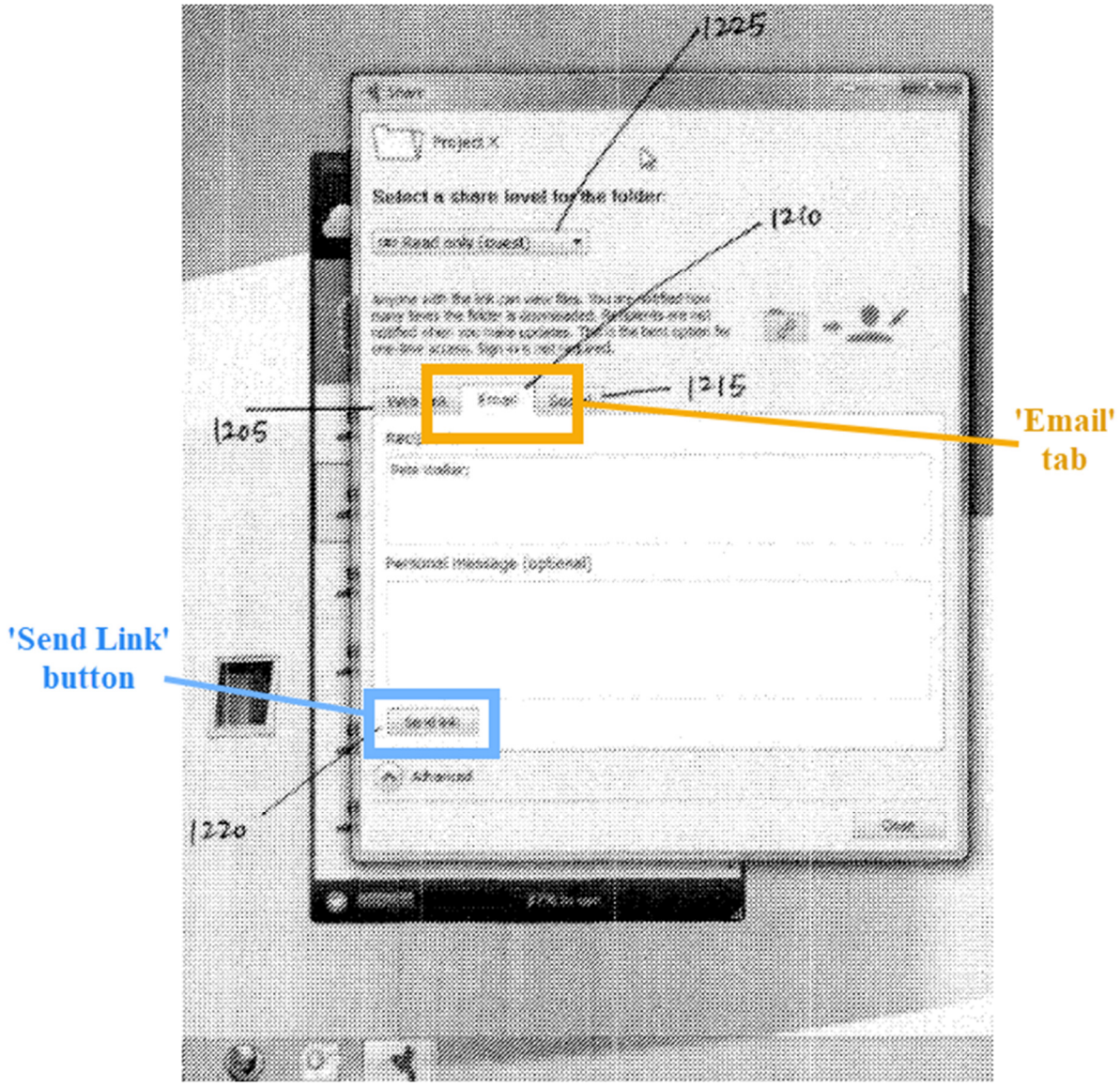
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(*Id.*, FIG. 11 (annotated).)

As demonstrated by Figure 12 below, Garcia discloses that, after a user drags a folder 1115 to a particular contact, a dialog box may be presented providing an option for the user to share a link to the folder via an email 1210 by clicking on a send link button 1220 ("email message identifying the at least one folder and including a reference to the at least one folder"). (*Id.*, 11:11-29, 11:35-43; EX1002 ¶49.) The user receiving the email may then remotely access the contents of the folder by clicking on the link in the received email ("without including a file

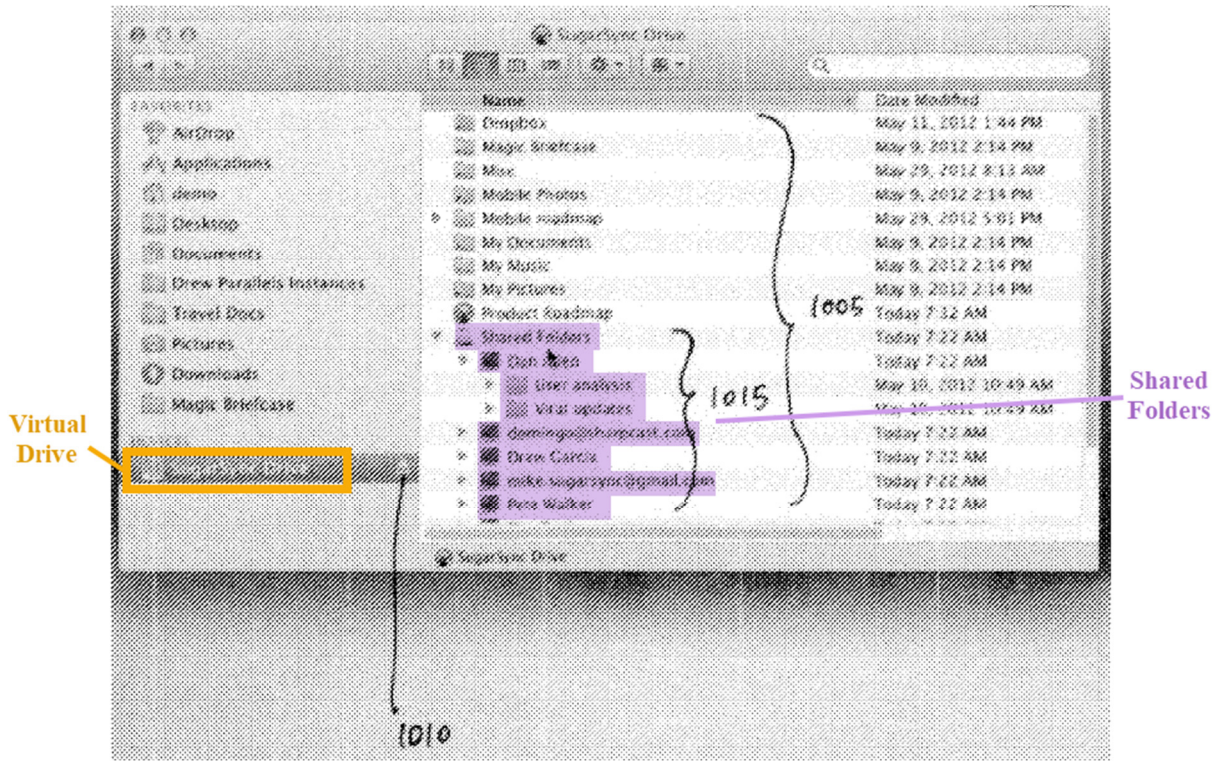
attachment with the at least one email message"). (EX1006, 11:29-31 ("When the contact clicks on the link to folder 1115, the contents of the folder are shared with the contact."); EX1002 ¶¶49-50.)



(EX1006, FIG. 12 (annotated).)

According to Garcia, as shown in Figures 10 and 20a below, a representation of a file may be created and viewed by a user in response to the creation of a

representation of a shared folder ("when the creation of the representation of the at least one folder is caused, an additional representation on the file explorer interface is caused to be created that represents the at least one file"). (*Id.*, 2:66-3:3, 4:58-62 ("[A] virtual drive is a file system representation on the user's local client device, of data from a source that is external to the local file system. The virtual drive provides a file system representation, on the user's local client device, of all objects, across a plurality of clients[.]"), 5:4-13, 5:27-43 ("A user is enabled to access and edit any item within any folder displayed in the virtual drive, including folders that do not reside on the local client (step 2020)."), 6:5-27, 10:52-11:10, claim 4.) Thus, as disclosed by Garcia, a user is able to access a file within a folder that is accessible through the virtual drive. (EX1002 ¶51.)



(EX1006, FIG. 10 (annotated).)

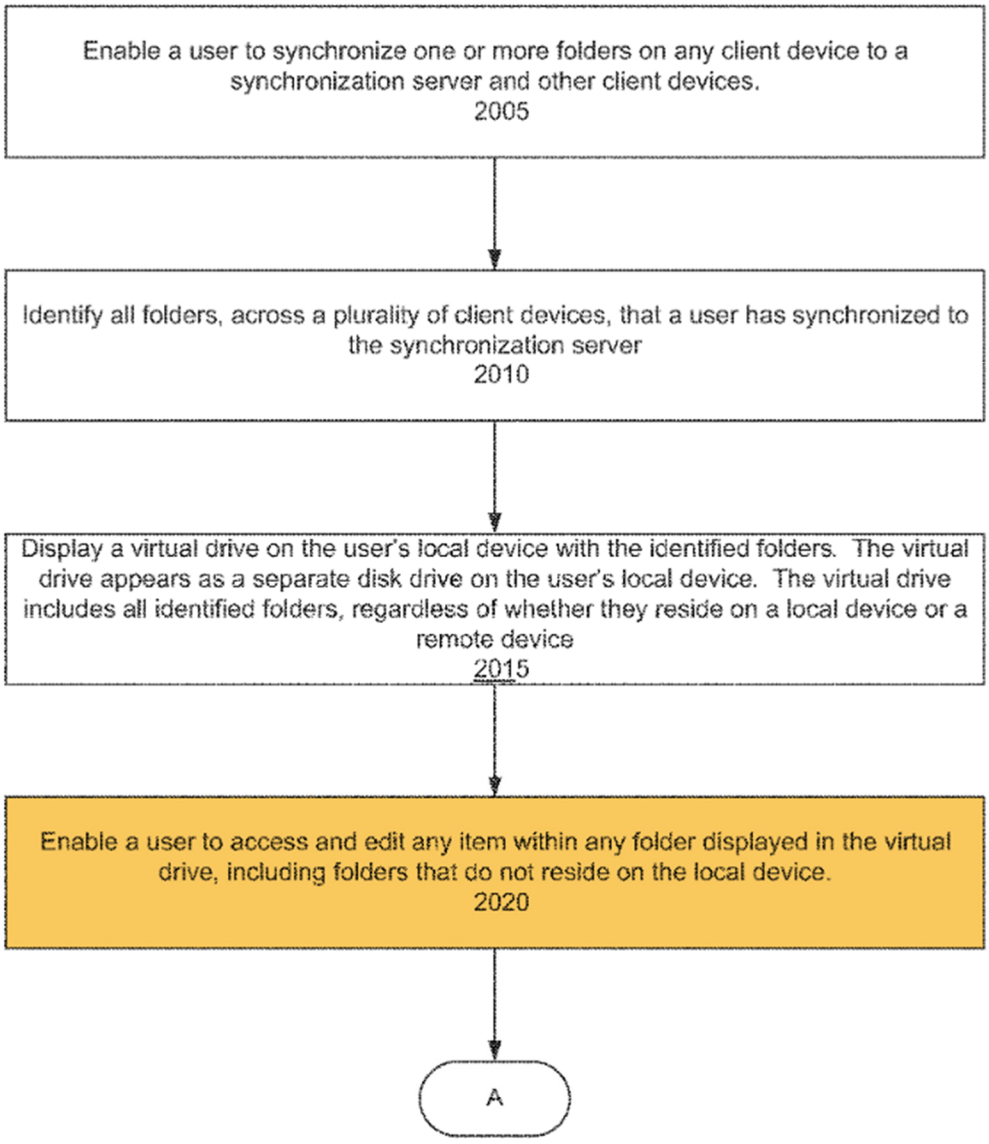


FIG. 20a

(*Id.*, FIG. 20a (annotated).)

As shown in Figure 20a below, Garcia explains that a user with whom a folder is shared ("the second node") can double-click such a file within a shared folder ("detection of the indication to open at least one file in the at least one folder"), which causes the file to be downloaded ("causing retrieval of the at least one file via the at least one network") in order for the user to view it ("for permitting display of the at least one file"). (*Id.*, 2:66-3:3, 5:4-13, 5:32-43 ("In one embodiment, when a user double clicks on a file or item in a remote folder in the virtual drive, the server downloads its copy of the file/item to the local synchronization software client (i.e., the client currently being used by the user)."), 6:5-27, 10:52-11:10, claim 4; EX1002 ¶52.)

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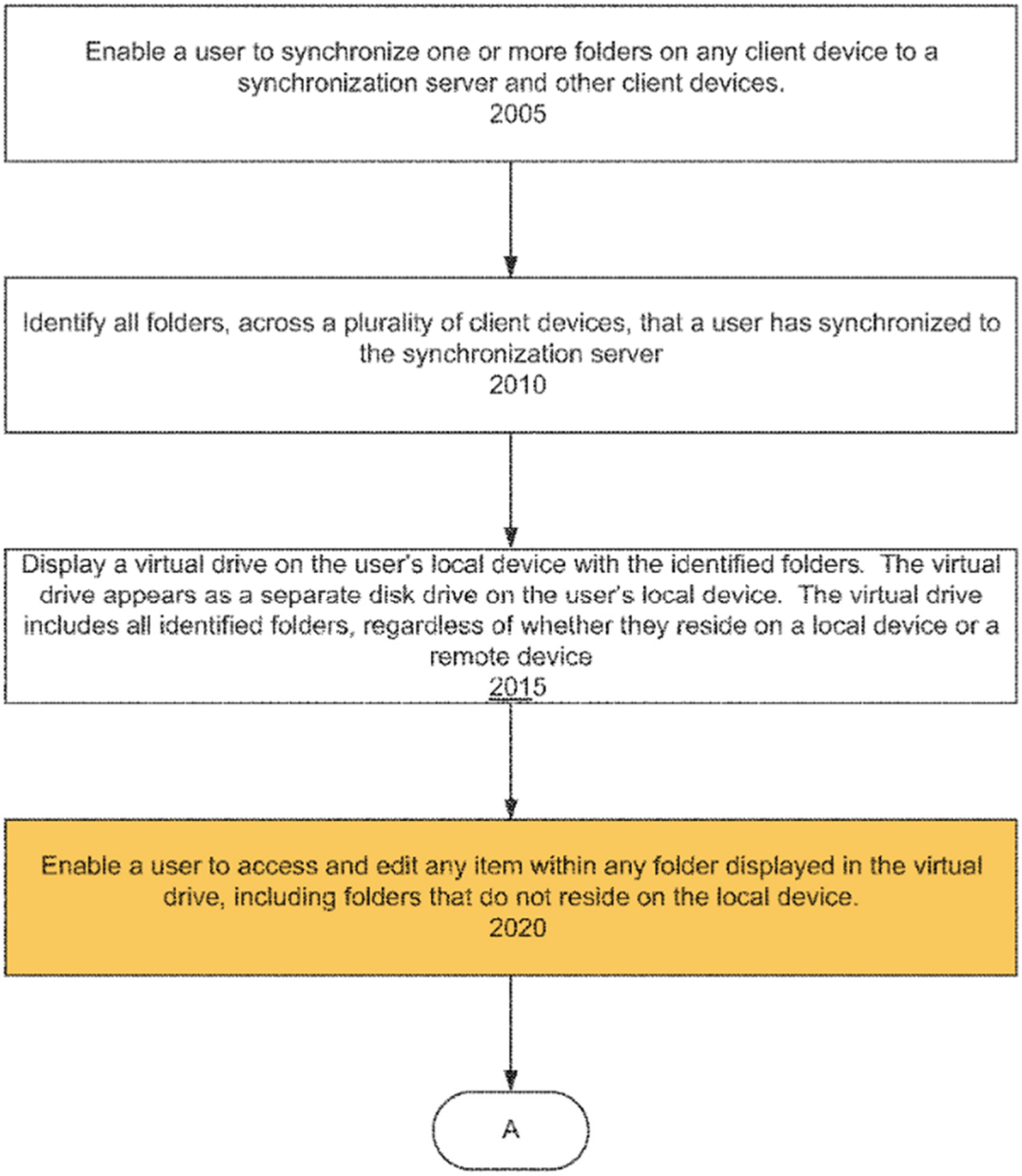


FIG. 20a

(EX1006, FIG. 20a (annotated).)

It would have been obvious to modify Houston to incorporate the above-discussed features taught by Garcia. (EX1002 ¶¶53-56.) First, a POSITA would have been encouraged to look to Garcia when implementing Houston's system of sharing folders and files, because Houston and Garcia disclose features in a common technical field and address similar problems. (*Id.* ¶53.) For example, both Houston and Garcia relate to folder and file sharing across client devices over a network. (EX1005, Abstract; EX1006, Abstract.)

Second, a POSITA would have had good reason, and found it predictable, to modify Houston's system to incorporate such features, based on Garcia's teachings. (EX1002 ¶54.) For example, a POSITA would have had good reason to modify Houston's system such that (i) an invitation involves sending an email to identified recipients identifying and referencing (*e.g.*, a link) any shared folders, (ii) shared folders and files are stored virtually instead of locally and represented for display among other folders and files within a client's file explorer interface, and (iii) selecting a shared file causes the retrieval of the at least one file via a network for display, similar to as described in Garcia, because the inclusion of such features would have had the benefit of "enabling greater control and file management by the user" by allowing the user to "easily synchronize, manage, and share folders across a plurality of client devices." (EX1006, 1:27-35; EX1002 ¶54.) As Garcia explains, "sending links to folders or files to other users [] allows other users to access the

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folders or files without requiring the other user to create an account in the synchronization system." (EX1006, 10:40-43.) Moreover, a POSITA would have understood that, with this modification, there would be no need to email folders or files or locally store such folders or files, which may be large. (*Id.*, 10:59-11:10 (discussing accessing folders that reside on a virtual drive of a device remote from the local device); EX1002 ¶55.) Instead, as Garcia teaches, the folders and files would be stored virtually on a server accessible over a network but displayed alongside other folders and files, as if stored locally, for selection and retrieval on demand, simplifying folder and file synchronization across clients and conserving valuable client resources. (EX1002 ¶55.) For example, as a POSITA would have recognized, by storing folders and files virtually on a server, a user may have access to the server's greater storage capacity compared to the limited storage capacity of the user's client device, improving the user's ability to share and access larger volumes of folders and files from any location. (*Id.*) Thus, a POSITA would have recognized the obvious and predictable benefits of the combined system, and that such a system would have better overcome the problems identified in Houston, including that "attaching files [is] cumbersome for many computer users" and, "where multiple iterations are involved, it is not difficult to end up with multiple versions of the same document, perhaps having the same or a similar file name, located in various places on a user's hard drive." (EX1005, 1:41-45; EX1002 ¶55.)

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Thus, a POSITA would have had good reason to combine the teachings of Houston and Garcia to arrive at the alleged invention recited in the challenged claims, as such a combination would have been nothing more than the combination and substitution of known elements (*e.g.*, Houston's synchronization system modified to incorporate the above-discussed features of Garcia's virtual drive synchronization system) to yield predictable results (*e.g.*, folder and file synchronization utilizing email invitations with links to virtual folders, which can be viewed and accessed on demand, as if stored locally). (EX1002 ¶56.)

Third, a POSITA would have had a reasonable expectation of success in combining the teachings of Houston and Garcia in the way discussed above, because such a modification would have merely involved modifying Houston's system using well-known computer programming principles to implement Garcia's teachings. (*Id.* ¶57.) Indeed, Houston already teaches a system for sharing and synchronizing a folder with a user identified by an email address and viewing and accessing such a folder using web- and/or device-based software, so programming the system to incorporate the above-discussed features taught by Garcia, such as sending an email including a link to a shared and synchronized virtual folder that can be viewed and accessed on demand, would have been a straightforward extension of Houston's teachings.

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2. Claim 1

a) A non-transitory computer readable storage medium storing one or more programs, the one or more programs comprising instructions which, when executed by an apparatus, cause the apparatus to:

To the extent the preamble of claim 1 is limiting, the combination of Houston and Garcia discloses the features therein. (EX1002 ¶¶58-60.) As explained below, Houston discloses an apparatus "storing" a computer program ("one or more programs") on "[a] non-transitory computer readable storage medium," such a program "comprising instructions" capable of, "when executed by the apparatus," performing the disclosed functions within Houston. (*Id.* ¶58.)

For example, Houston discloses an "apparatus," which "may comprise a general-purpose computer selectively activated or reconfigured by a computer program," where the computer program "may be stored on a non-transitory computer readable storage medium." (EX1005, 9:5-18.) Houston's claims recite a "computer program product for synchronizing a folder across a computer network, the computer program product stored on a non-transitory computer readable medium and including instructions that when loaded into memory cause a computer processor to carry out the steps." (*Id.*, claim 5.)

Accordingly, the combination of Houston and Garcia discloses this preamble. (EX1002 ¶60.)

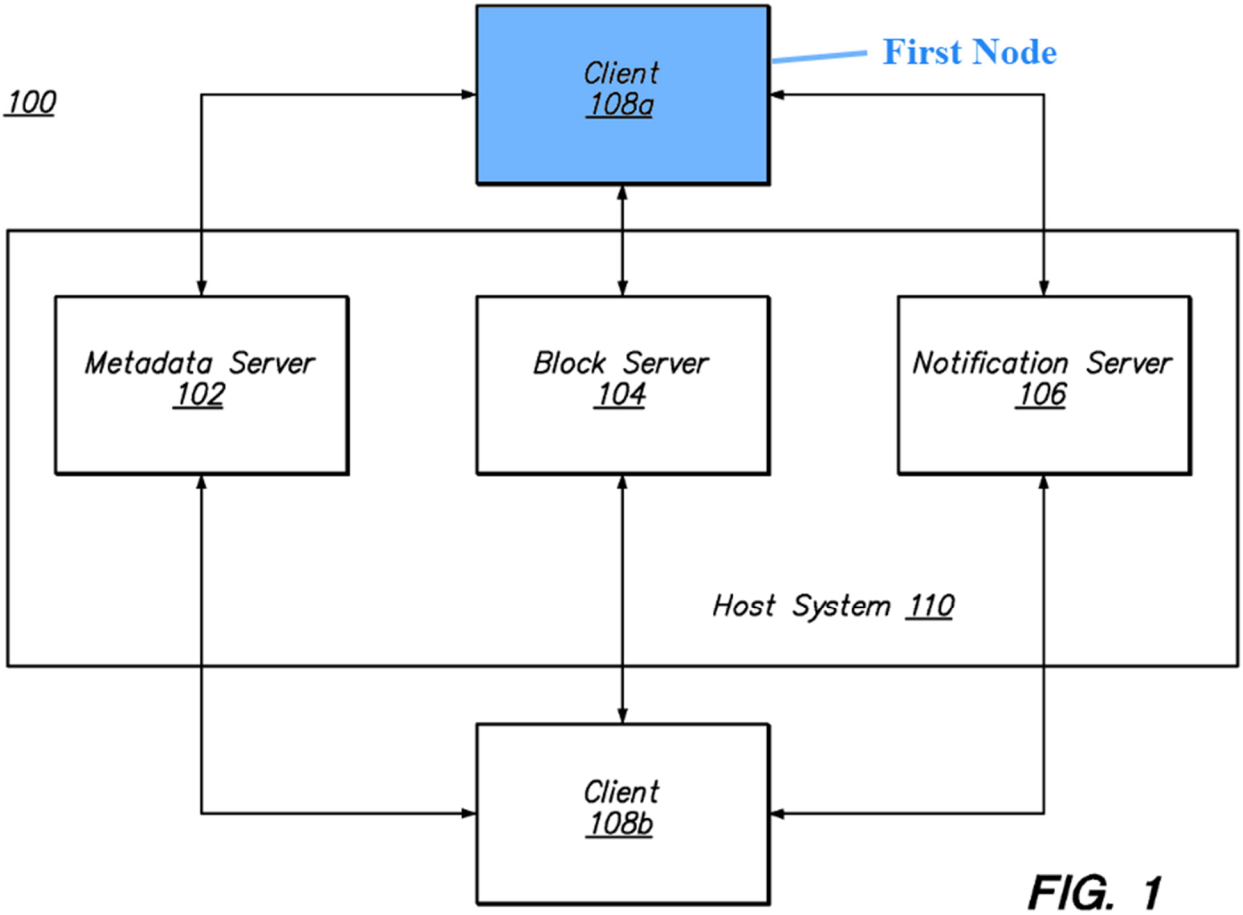
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b) cause display, at a first node, of a first user interface element, a second user interface element, and a third user interface element;

Houston discloses this feature. (EX1002 ¶¶61-73.) For example, as discussed below, Houston discloses presenting ("cause display") on a client device ("at a first node") a window user interface ("UI") that allows a user to select a folder to share ("a first user interface element"), a text entry field for identifying recipients with whom to share the folder ("a second user interface element"), and a button to initiate sharing ("a third user interface element"). (*Id.* ¶61; Sections IX.A.2.c-h.)

For example, as shown below in Figure 1, Houston discloses "a host system 110 and clients 108a, 108b." (EX1005, 2:60; *see also id*., Abstract ("a first user of a first client"), 3:12-24, 5:42-51.) Client 108a constitutes "a first node." (EX1002 ¶62.)

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(EX1005, FIG. 1 (annotated).)

With respect to "a first user interface element," Houston discloses a window UI displaying existing folders selectable by a user for sharing with other users. (EX1002 ¶63.) For example, the "user interface window 300" illustrated in Figure 3 below includes folders (e.g., "Music"), which a user can "select . . . to be shared." (EX1005, 3:35-40, 7:18-40.)

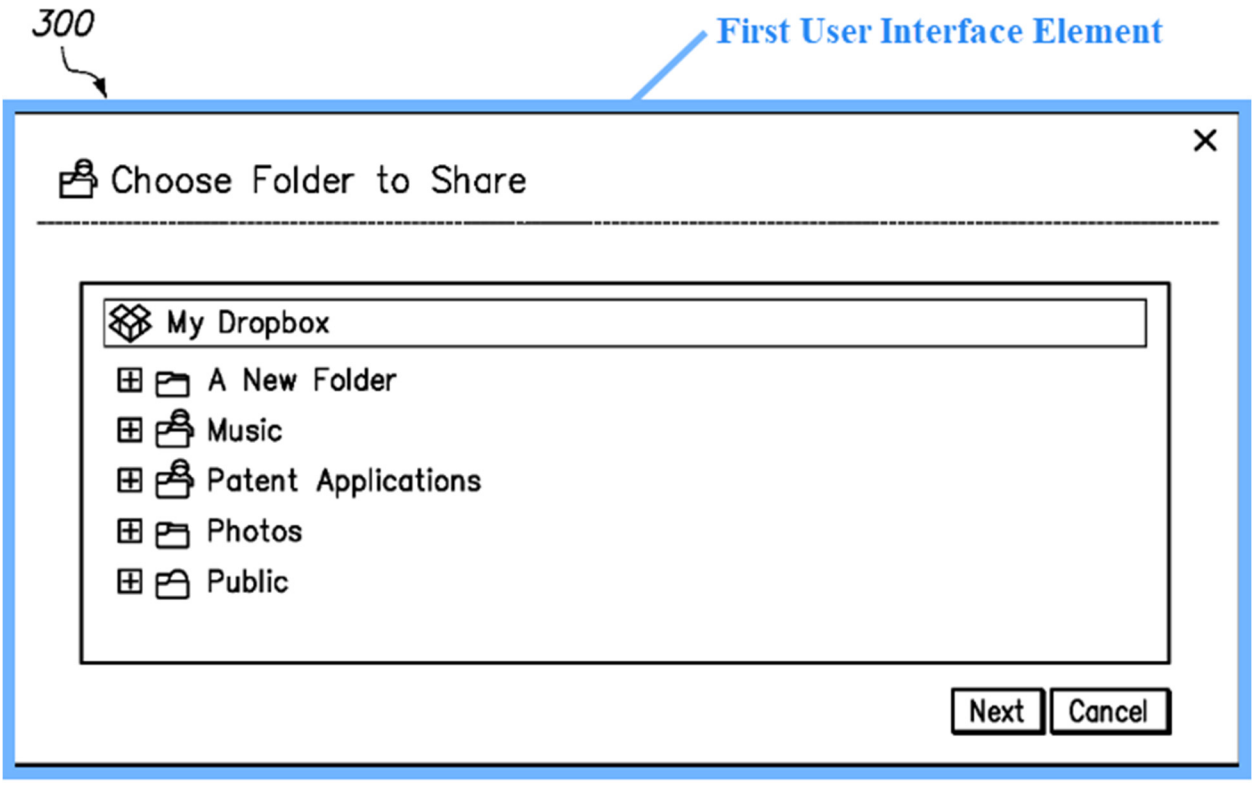


FIG. 3

(*Id.*, FIG. 3 (annotated).)

As another example, with respect to Figure 10 below, Houston explains "how a folder can be shared using software on client 108." (*Id.*, 3:43-46, 7:18-31.) For example, the user can "indicate[] that he wishes to share the 'Patent Applications' folder" by "right-clicking on the folder name and selecting a 'Share This Folder . . .' option 1102, as illustrated in FIG. 11." (*Id.*, 7:32-36.) Figure 10 also illustrates a "Share with" dropdown menu, which a POSITA would have understood, based on at least Houston's teachings relating to Figure 11, is another way to share a selected folder. (*Id.*, FIG. 10; EX1002 ¶64.)

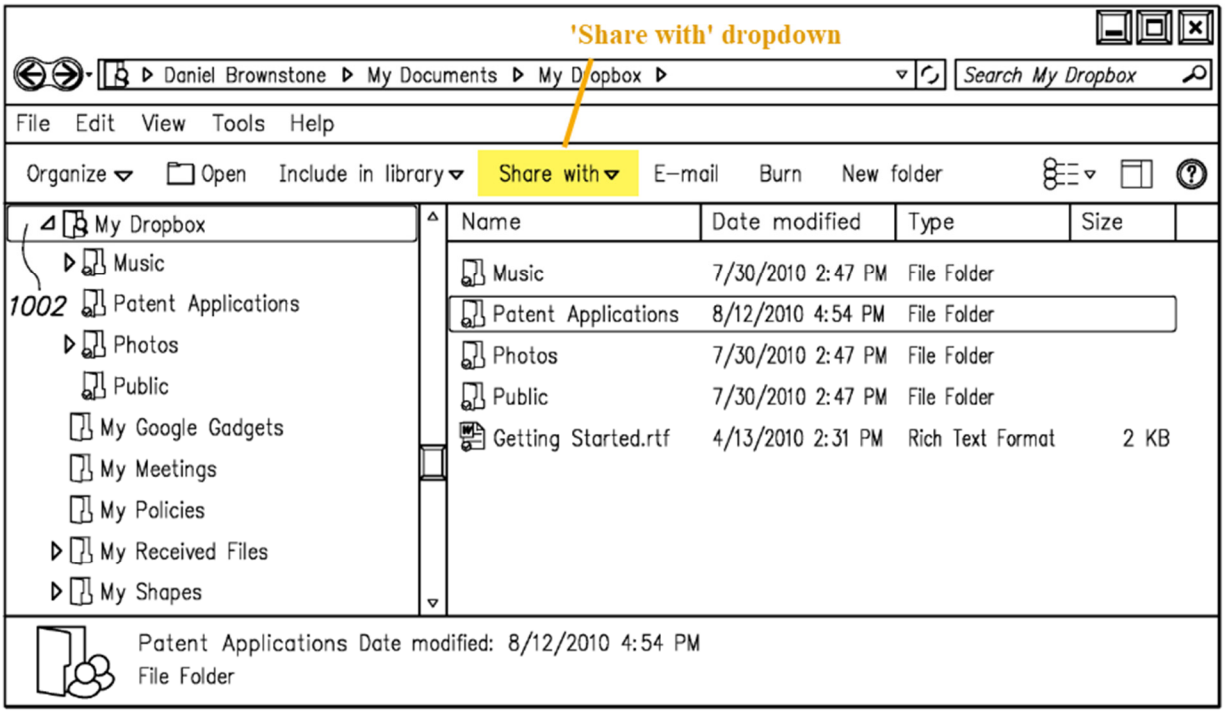


FIG. 10

(EX1005, FIG. 10 (annotated).)

Thus, Houston discloses a window UI (*e.g.*, Figures 3 and 10) that allows a user to select a folder to share ("a first user interface element"). (EX1002 ¶65.)

With respect to "a second user interface element," Houston discloses a text entry field displayed in a window UI that allows a user to input email addresses with whom the selected folder will be shared. (*Id.* ¶66.) For example, referring to Figure 4 below, Houston describes "a user interface window 400 via which the user can invite those people with whom he would like to share the folder." (EX1005, 3:41-46.)

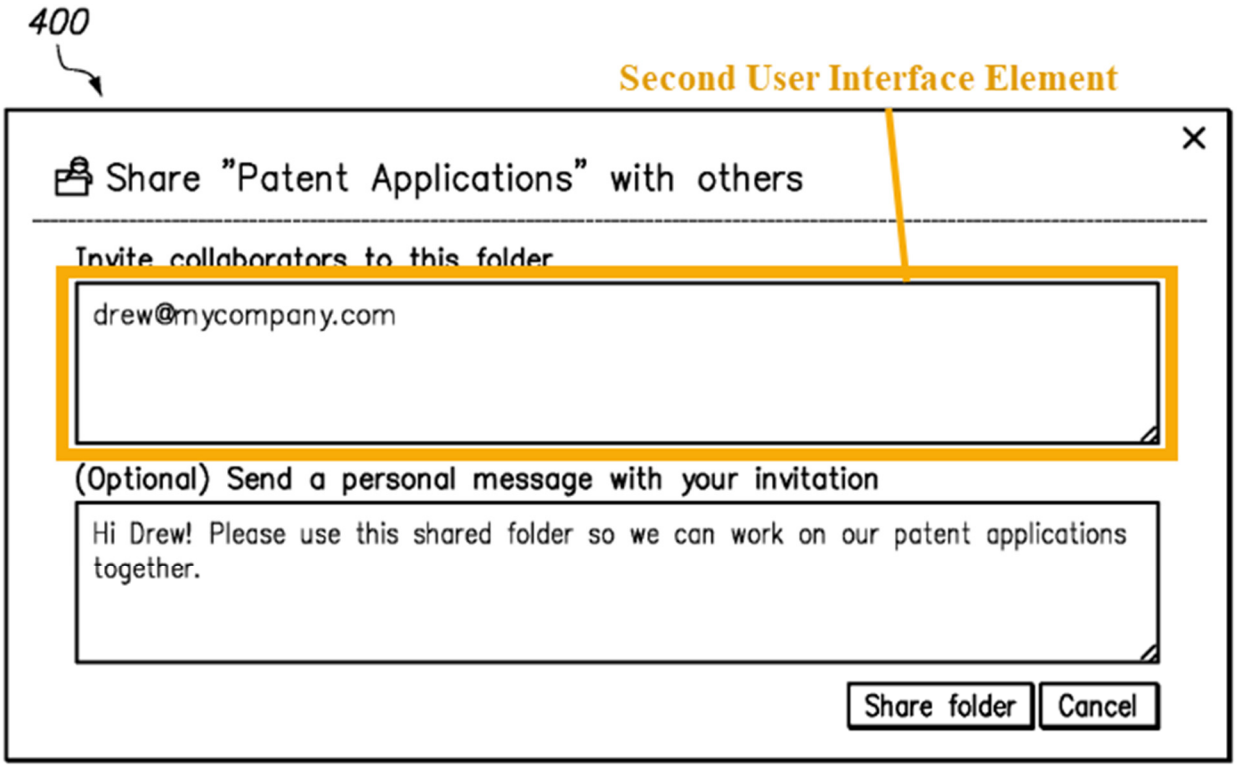


FIG. 4

(*Id.*, FIG. 4 (annotated).)

As additional examples, Houston explains that "FIG. 10 and FIG. 11 provide a view of how a folder can be shared using software on client 108." (*Id.*, 3:43-46.) Figure 10 illustrates a "Share with" dropdown menu option and Figure 11 illustrates a "Share This Folder" option 1102, either of which can be selected to share a folder. (*Id.*, 7:32-36, FIGs. 10-11.) Although Figures 10 and 11 do not illustrate a window UI with a text entry field that allows a user to input email addresses with whom the selected folder will be shared, Houston explains that "the user also specifies the account identifier of the user(s) with whom the folder is to be shared." (*Id.*, 7:38-

40.) Thus, a POSITA would have understood that selecting either of the UI options would have displayed a UI with a text entry field, consistent with Houston's teachings. (EX1002 ¶67.) At the very least, it would have been obvious to display such UIs with a text entry field, as Houston teaches using such a field for the same purpose with respect to Figure 4, and a POSITA would have recognized that such a field would allow a user to easily identify recipients using email addresses, which were well known and widely used at the time. (*Id.* ¶68.)

Thus, Houston discloses a text entry field displayed in a window UI (*e.g.*, Figure 4) that allows a user to input email addresses with whom the selected folder will be shared ("a second user interface element"). (*Id.* ¶69.)

With respect to "a third user interface element," Houston discloses displaying a button for initiating sharing of the folder. (EX1002 ¶70.) For example, UI window 400 in Figure 4 below shows a "Share Folder" button. (EX1005, FIG. 4.) Because Houston explains that UI window 400 enables a user to "invite those people with whom he would like to share the folder," a POSITA would have understood that Houston discloses displaying the "Share Folder" button to allow a user to initiate sharing with the indicated recipient(s) by clicking the button. (*Id.*, 7:40-43, FIG. 4; EX1002 ¶70.)

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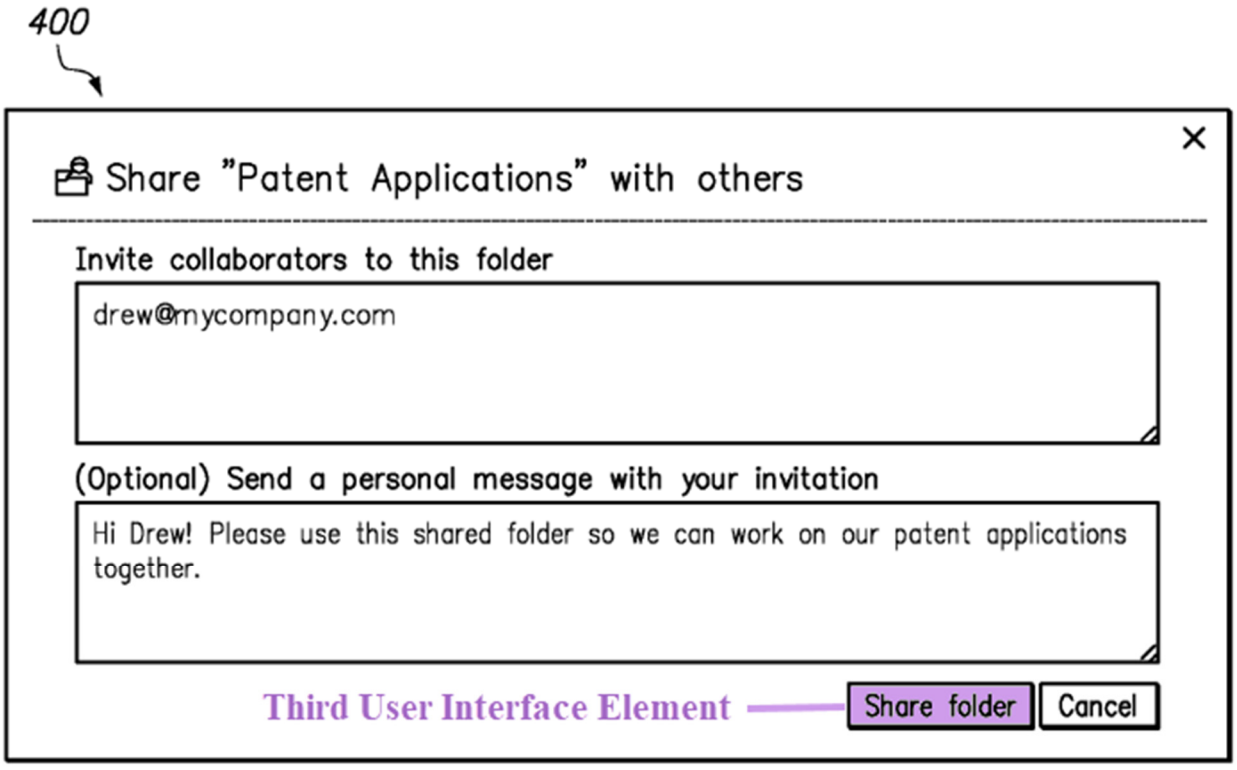


FIG. 4

(EX1005, FIG. 4 (annotated).)

As additional examples, with respect to Figures 10 and 11, although a button for initiating sharing is not shown, a POSITA would have understood that the client software would have necessarily provided such a button, consistent with Houston's teachings. (*Id.*, 3:41-46, 7:38-40; EX1002 ¶71.) At a minimum, it would have been obvious to provide such a button in the UIs of Figures 10 and 11, as Houston teaches using such a button for the same purpose with respect to Figure 4, and a POSITA would have recognized that UI buttons were well known and widely used for initiating action in a software system. (EX1002 ¶71.)

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Thus, Houston discloses a button for initiating sharing of the folder with the identified recipients ("a third user interface element"). (*Id.* ¶72.)

c) allow receipt, at the first node, of information associated with at least one folder via the first user interface element;

Houston discloses this feature. (EX1002 ¶¶74-81.) As explained above with respect to the previous limitation, Houston discloses a window UI with a display area presenting a plurality of selectable folders ("first user interface element"). (Section IX.A.2.b.) As explained below, Houston also teaches "allow[ing] receipt, at the first node, of information associated with at least one folder via the first user interface element." (EX1002 ¶74.)

For example, referring to Figure 3 below, the window UI 300 disclosed by Houston presents a plurality of folders ("at least one folder") that a user may select for sharing with other users ("the first user interface element"). (EX1005, FIG. 3, 3:38-40 ("FIG. 3 illustrates a user interface window 300 that enables a user to select from among existing folders to be shared.").)

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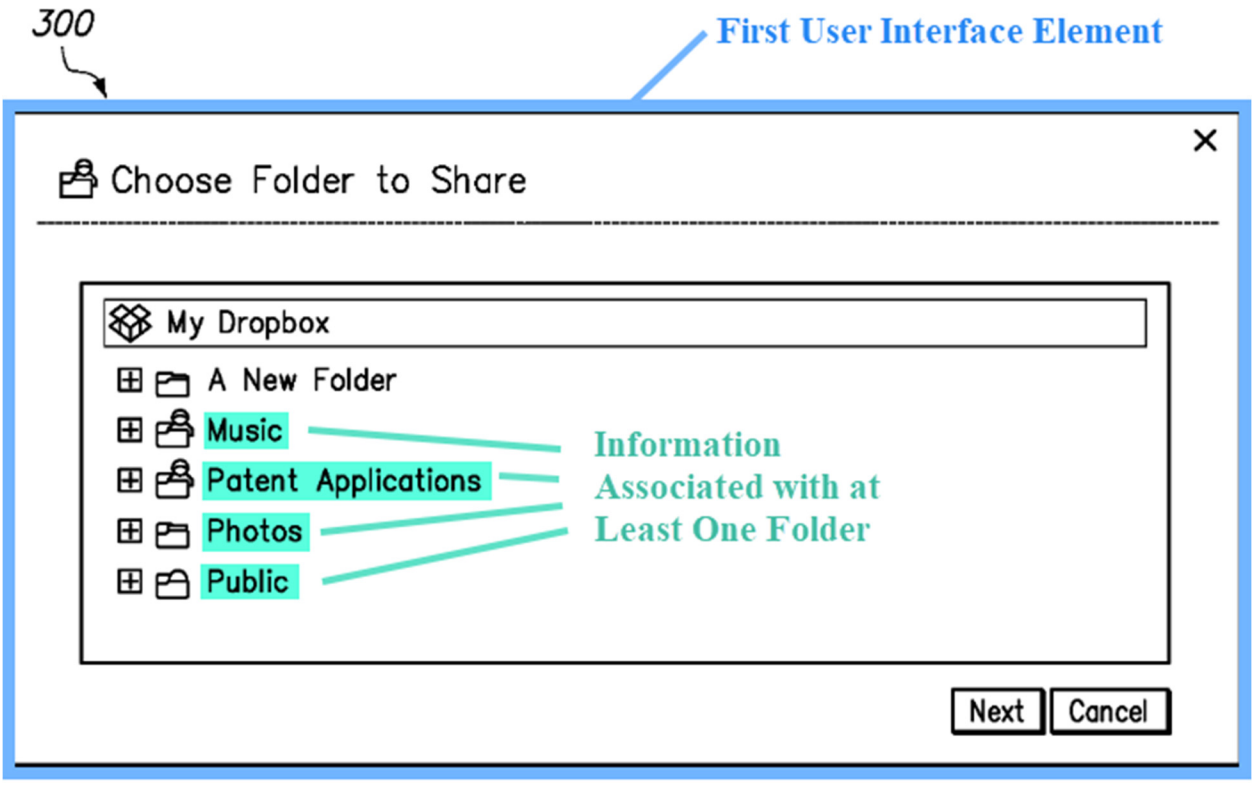


FIG. 3

(*Id.*, FIG. 3 (annotated).)

Each of the folders displayed in the window UI 300 is designated by an identifier or name, such as "Music." (*Id.*) Thus, "information" (*i.e.*, the name or identifier) is "associated with the at least one folder." (EX1002 ¶¶75-76.) When a user selects a folder in window UI 300 and then clicks the "Next" button, client 108a receives ("receipt, at the first node") the information (*e.g.*, the folder's name) that identifies which folder the user intends to share. (EX1005, 3:35-45, 7:18-58.) Thus,

the information associated with the at least one folder is received "via the first user interface element."[5] (EX1002 ¶76.)

Similarly, as shown below, Figures 10 and 11 respectively show a file explorer UI window with selectable folders and a "Share with" dropdown menu (Figure 10), and a context menu UI window (Figure 11) that appears when a user right clicks on one of the folders displayed in the file explorer UI window:

[5] Indeed, in order for the client to execute the process of sharing the folder, it must necessarily receive the information identifying which folder to share, or Houston's system would not operate as disclosed. (EX1002 ¶¶76, 79; EX1005, 3:35-43, 7:32-58.) Thus, in addition to being explicitly disclosed, the claimed feature is inherently disclosed or rendered obvious by Houston.

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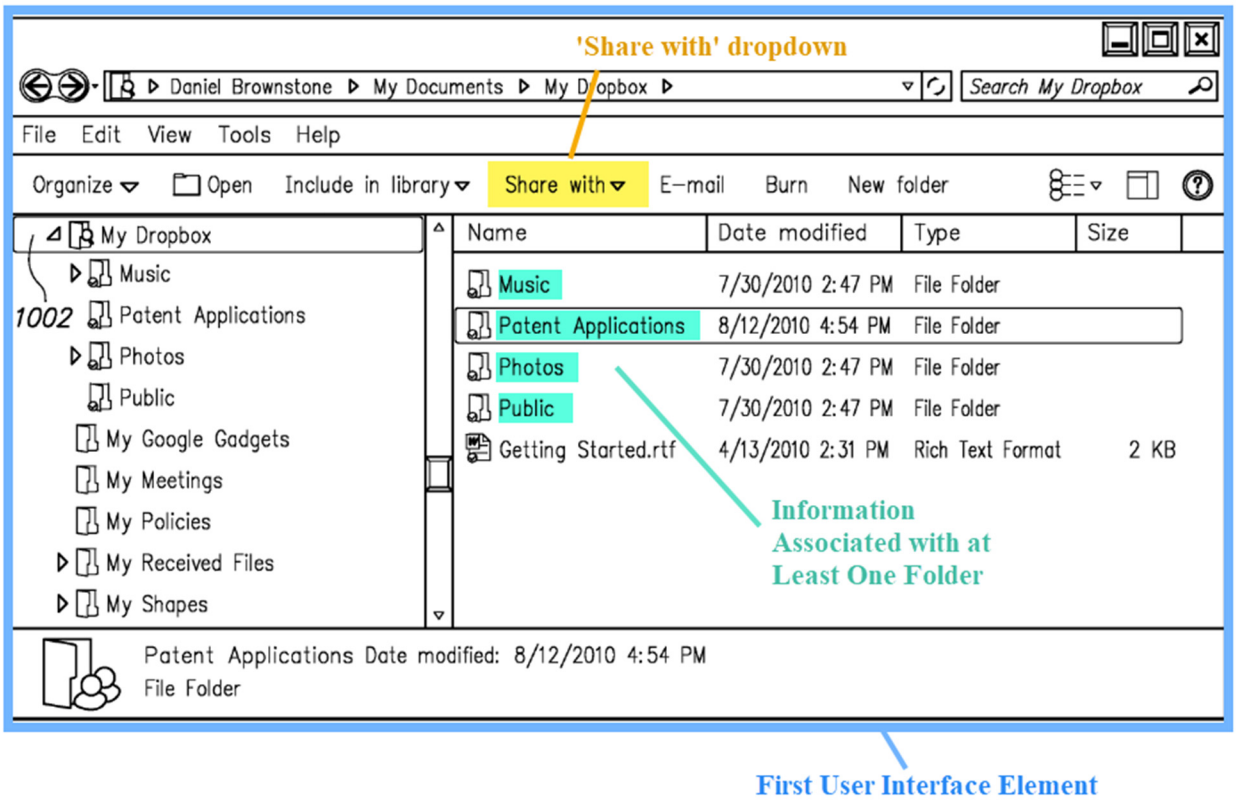


FIG. 10

(*Id.*, FIG. 10 (annotated).)

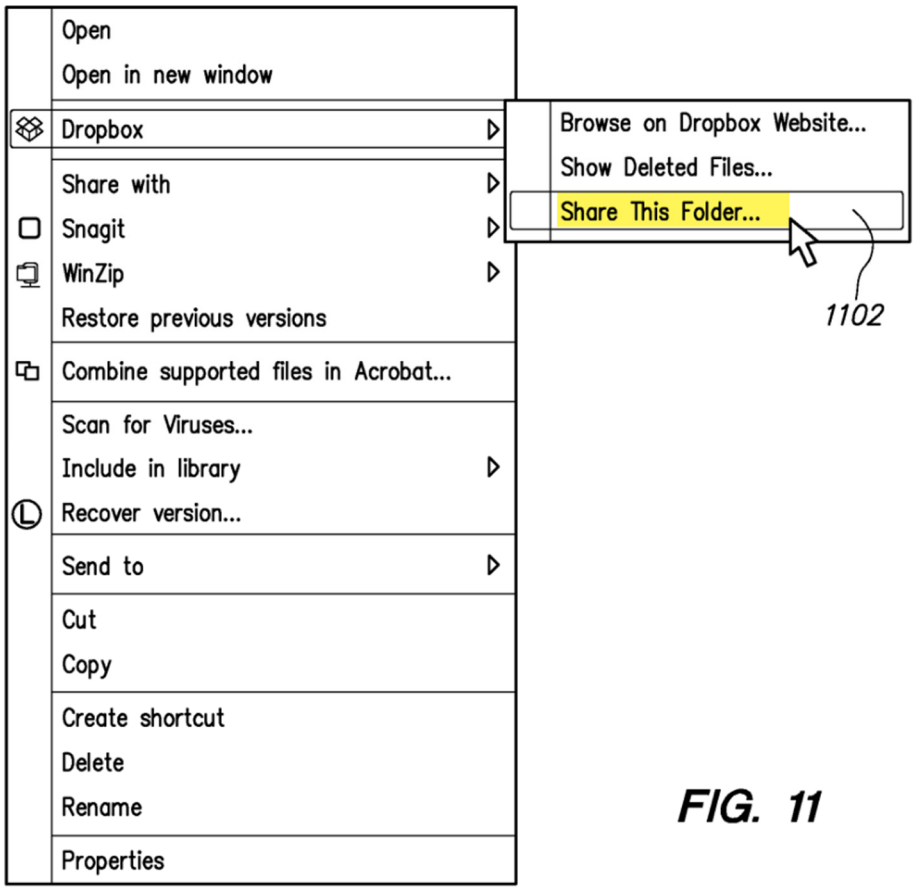


FIG. 11

(*Id.*, FIG. 11 (annotated).)

Houston discloses that the context menu in Figure 11 can be used to initiate sharing of a folder. (*Id.*, 7:18-40 ("a user can select[] a 'Share This Folder . . .' option 1102, as illustrated in FIG. 11").) A POSITA would have understood based on Houston's disclosure that the "Share with" dropdown menu in Figure 10 provides the same functionality for selected folders. (EX1002 ¶¶77-78.)

Thus, when the user views a plurality of folders through a file explorer UI window like that shown in Figure 10 ("first user interface element"), where each folder is designated by a different name ("information associated with the at least

one folder"), the user may right-click on one of the folders and select to share it with another user (as shown in Figure 11) or use the "Share with" dropdown menu to share a selected folder (as shown in Figure 10), said selection information being received by client 108a ("receipt, at the first node . . . via the first user interface element"). (*Id.* ¶80.)

Accordingly, Houston discloses this limitation. (*Id.* ¶81.)

d) cause to be sent, from the first node via at least one network, the information associated with the at least one folder;

Houston discloses this feature. (EX1002 ¶¶82-85.) As explained below, Houston discloses a user at client 108a sharing a folder across multiple clients ("cause to be sent, from the first node") through the use of multiple servers ("via at least one network") that maintain the folder's name or identifier ("information associated with the at least one folder"), as well as the folder's contents. (*Id*. ¶82.)

For example, Houston discloses an "invention [that] enables synchronization of folders shared among multiple clients over a network," as shown by Figures 1 and 6 below. (EX1005, 1:53-54.) The host system 110 of Figure 1 "maintain[s] synchronized shared folders" accessed by multiple clients (*e.g.*, clients 108a and 108b) and includes "a metadata server 102; a block server 104; and a notification server 106." (*Id*., 2:56-62.) These servers facilitate communication of information associated with folders among the multiple clients. (*Id*., 2:63-3:46.) For example, a

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user may instantiate a folder, which is then synchronized to host system 110, and shared among other clients, after which it is kept synchronized across the clients by host system 110. (*Id*., Abstract, 1:53-2:2, 3:5-11, 3:64-4:2 ("Upon determining that a change has occurred to the synchronized folder, file events engine 514 informs 604 synchronization engine 504 that a change has been detected, and the location (path) of the folder or file within the folder where the change has occurred."), 4:60-64.) Houston discloses that clients 108a and 108b can maintain an open network connection to notification server 106 (*id.*, 6:5-8), and communicate share instructions to host system 110 through the Internet. (*Id.*, 7:32-40.)

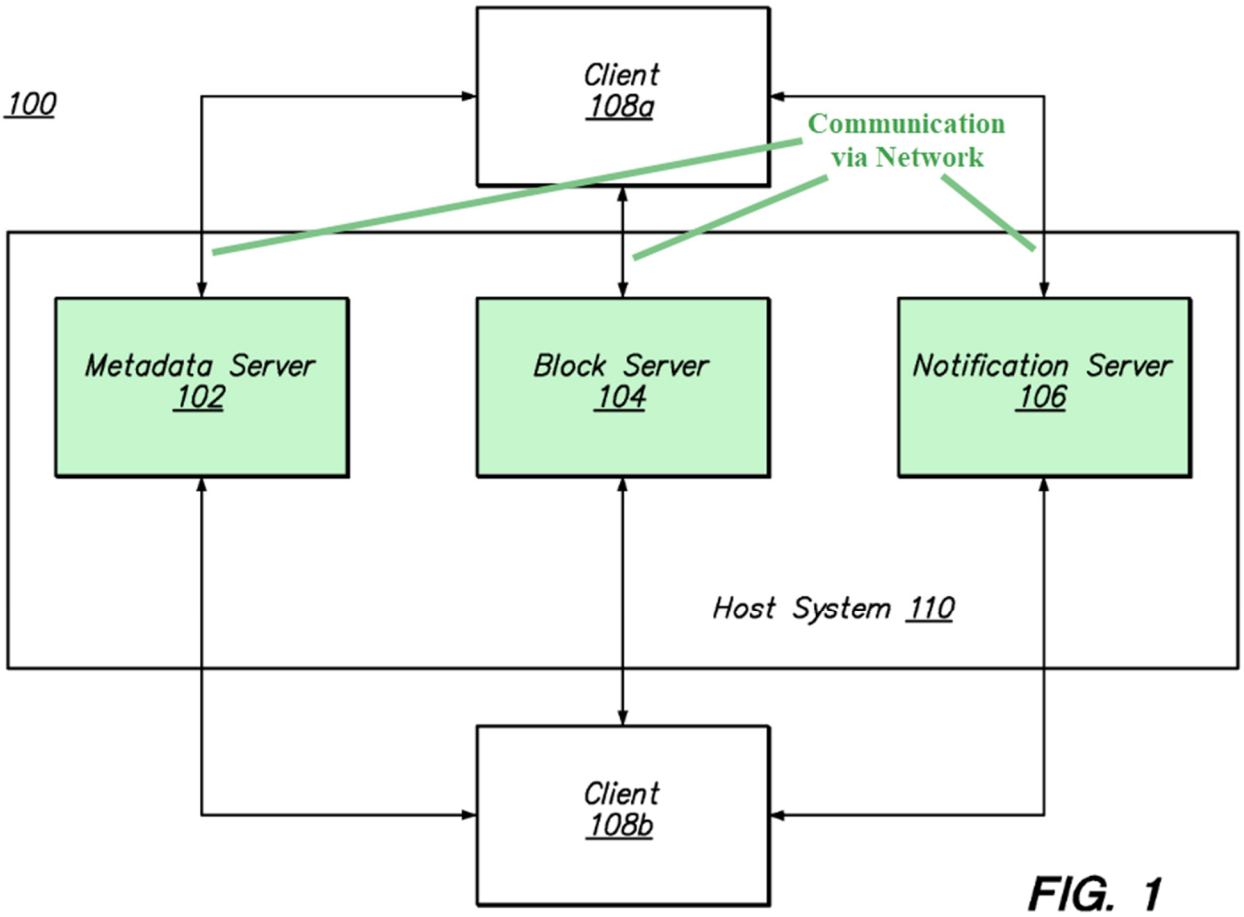


FIG. 1

(*Id.*, FIG. 1 (annotated).)

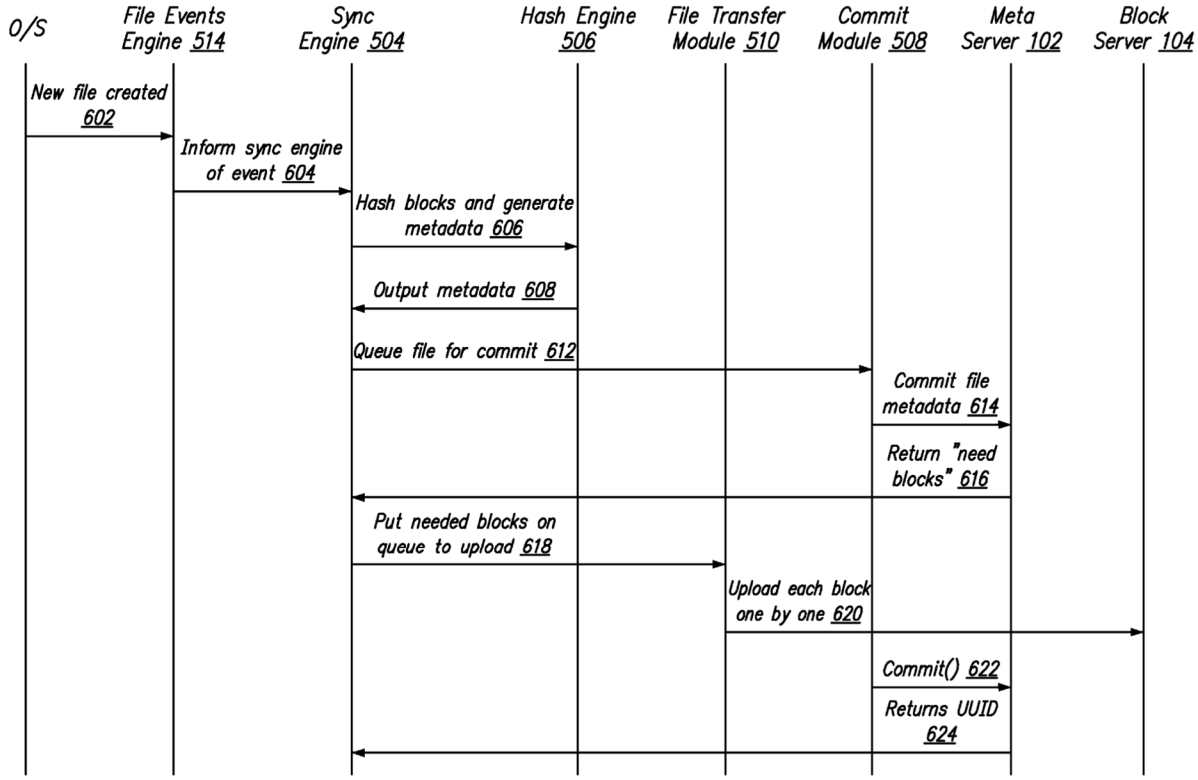


FIG. 6

(*Id.*, FIG. 6.)

Houston discloses that client 108a sends to host system 110 the identifier or name of the folder selected for sharing, which is needed to share and synchronize folders across clients. (EX1002 ¶¶83-84.) For example, without this information, host system 110 would not know what should be shared and synchronized. (*Id.*)

Accordingly, Houston discloses this limitation. (*Id.* ¶85.)

e) allow receipt, at the first node, of an object associated with at least one email address via the second user interface element;

Houston discloses this feature. (EX1002 ¶¶86-90.) For example, as discussed above in Section IX.A.2.b, Houston discloses a window UI including a text box ("second user interface element"), which allows client 108a to receive ("receipt, at the first node") text inputted by a user that contains one or more account identifiers, such as email addresses or some other identifier associated with an email address of a user with whom a folder may be shared ("an object associated with at least one email address"). (*Id.* ¶86.)

For example, as shown in Figure 4 below, Houston discloses a portion of a window UI labeled "Invite collaborators to this folder" capable of receiving as a text string the one or more email addresses of the intended recipient(s) of a shared folder. (EX1005, 2:31-33, 3:41-43.)

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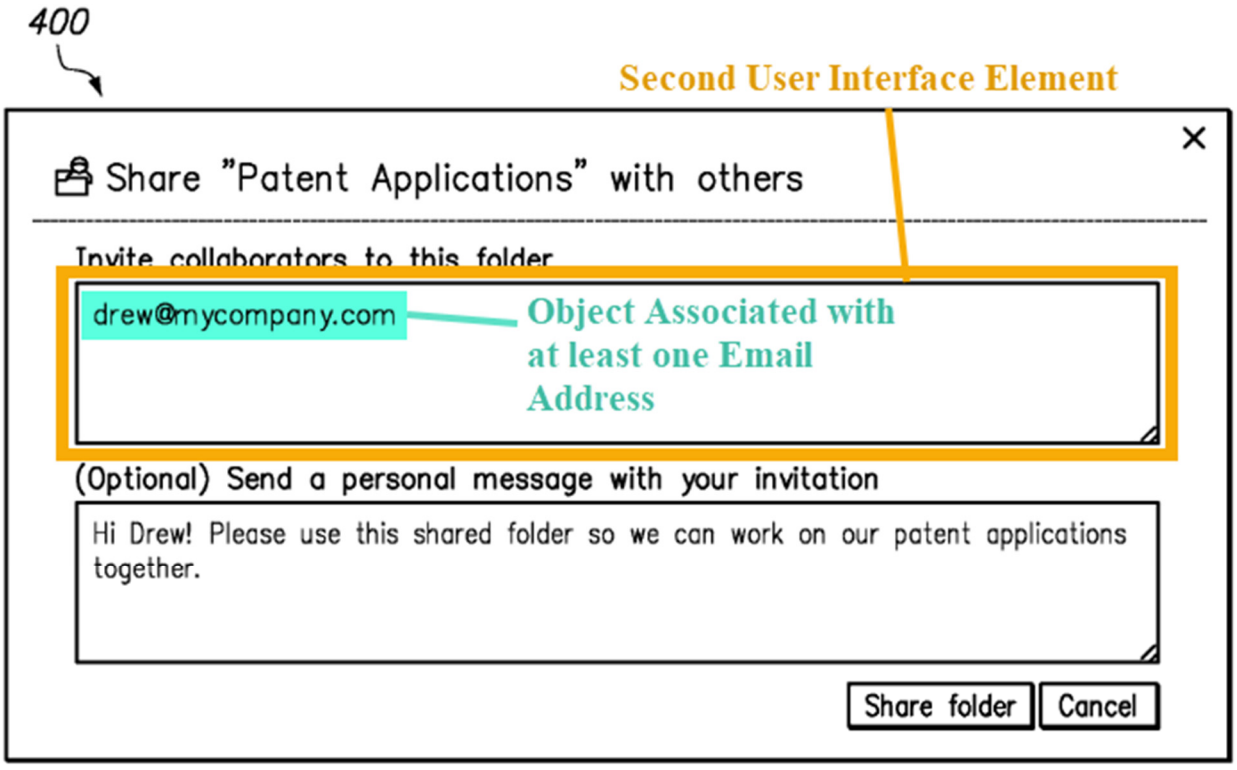


FIG. 4

(*Id.*, FIG. 4 (annotated).)

Such a received text string is "an object associated with at least one email address," consistent with the specification and claims of the '737 patent, which explains that a text string representing one or more email addresses may be considered an "object." (EX1001, claim 2, 39:60-63 ("Exemplary data objects that may be requested via a data object request include . . . text data."); EX1002 ¶¶87-88.)

Similarly, with respect to Figures 10 and 11, Houston discloses that, when a user wishes to share a folder, the user may do so by right-clicking on the folder name and selecting "Share This Folder" option 1102 (Figure 11) or the "Share with"

dropdown menu (Figure 10) ("second user interface element"), after which the user must "specif[y] the account identifier of the user(s) with whom the folder is to be shared" ("an object associated with at least one email address"). (EX1005, 2:31-33, 3:41-43, 7:18-40.) As discussed above, with respect to Figures 10 and 11, Houston discloses (or renders obvious) that identifiers (*e.g.*, email addresses) may be specified using a text box. (EX1002 ¶89; Section IX.A.2.b.)

Accordingly, Houston discloses this limitation. (EX1002 ¶90.)

f) cause to be sent, from the first node via the at least one network, the object associated with the at least one email address;

Houston discloses this feature. (EX1002 ¶¶91-95.) For example, Houston discloses allowing a user to input a text string representing one or more email addresses ("the object associated with at least one email address") and communicating ("cause to be sent, from the first node") that text string to host system 110 through a network connection ("via at least one network"), which then shares the folder with the user(s) identified by the one or more email addresses represented by the communicated text string. (*Id*. ¶91.)

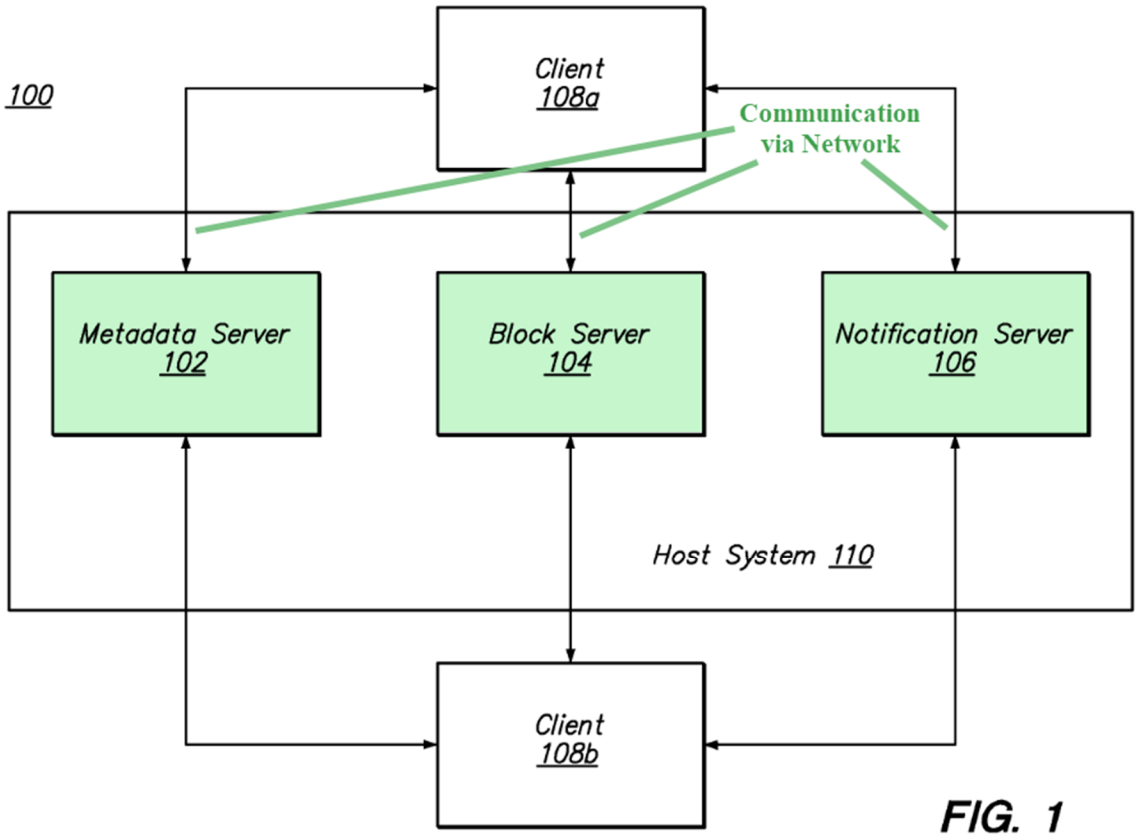
For example, Houston discloses an "invention [that] enables synchronization of folders shared among multiple clients over a network," as shown by Figure 1 below. (EX1005, 1:53-54.) Folders are shared and synchronized via host system 110, which includes "a metadata server 102; a block server 104; and a notification server

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106," and any number of clients 108 (*e.g.*, clients 108a and 108b). (*Id*., 2:56-62, 3:22-24.) Houston further discloses that through connection with the servers of host system 110 ("via the at least one network"), client 108a may communicate ("cause to be sent, from the first node") a text string containing the one or more email addresses of the users ("the object associated with at least one email address") with whom the folder is to be shared. (*Id*., 2:56-3:46, 7:32-46; EX1002 ¶92.)[6]

[6] Indeed, without such information, Houston's system would not know which client(s) must receive the shared folder, which is needed in order for Houston's system to work as described. (EX1002 ¶93.) Thus, in addition to being explicitly disclosed, the claimed feature is inherently disclosed or rendered obvious by Houston.

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(EX1005, FIG. 1 (annotated).)

Alternatively, at a minimum, a person of ordinary skill in the art would have had good reason to send such information (*i.e.*, a text string containing one or more email addresses) to Houston's servers, given Houston explains that this information identifies the recipients of a shared folder. (EX1002 ¶94.) The information would allow the server to synchronize folders across clients, as described in Houston. (*Id.*)

Accordingly, Houston discloses this limitation. (*Id.* ¶95.)

g) allow receipt, at the first node, of an indication of a selection of the third user interface element; and

Houston discloses this feature. (EX1002 ¶¶96-100.) For example, Houston discloses a share folder button ("third user interface element"), a user's selection of

which is received by client 108a ("receipt, at the first node, of an indication of a selection") as an indication the user wishes to share a selected folder with identified recipients. (*Id.* ¶96.)

For example, as shown in Figure 4 below, Houston discloses a window UI 400 with a "Share folder" button that can be selected by a user to indicate to client 108a that the user wishes to share a folder. (EX1005, 2:31-33, 3:40-45, 7:32-38.)

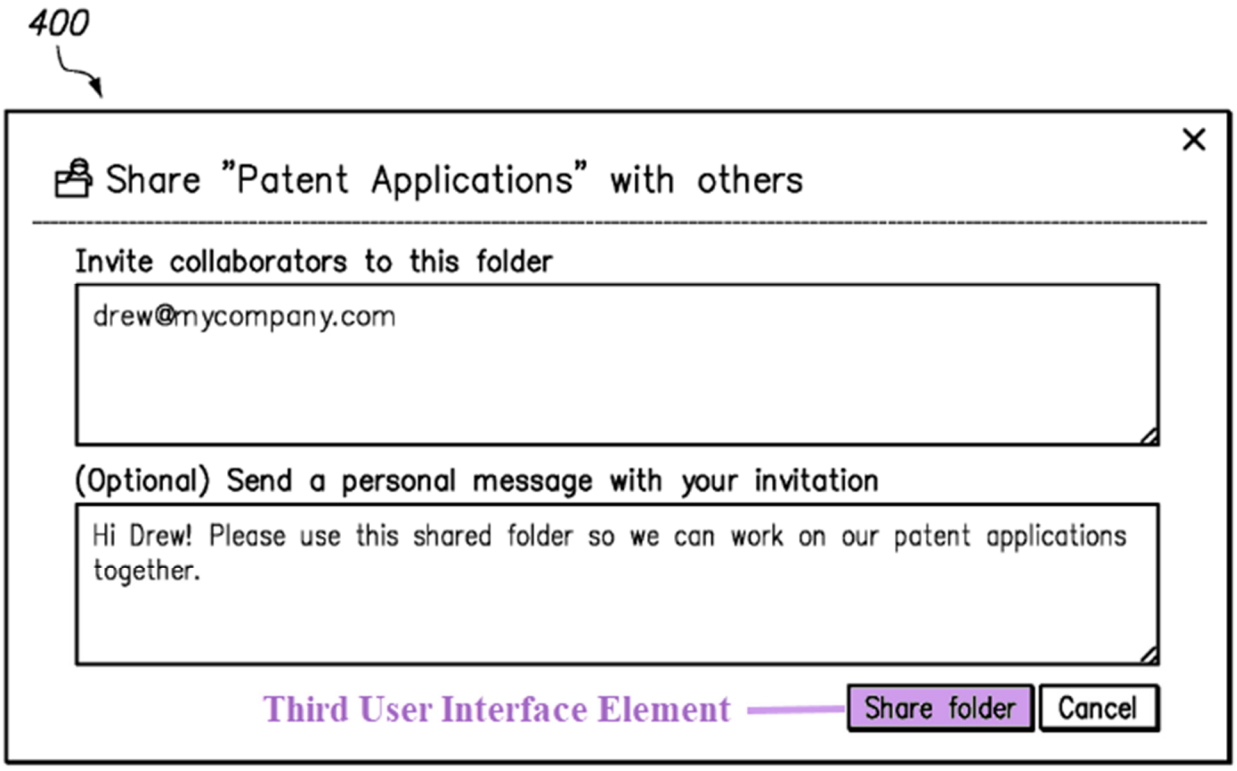


FIG. 4

(*Id.*, FIG. 4 (annotated).)

Additionally, with respect to Figures 10 and 11, although a button for initiating sharing of the folder is not shown, a POSITA would have understood that the client software would have provided such a button to initiate sharing after the

"Share This Folder" menu option 1102 or the "Share with" dropdown menu option is selected, consistent with Houston's teachings. (*Id.*, 3:41-46, 7:38-40; EX1002 ¶¶97-98.) At a minimum, it would have been obvious to provide such a button, as Houston teaches using such a button for the same purpose with respect to Figure 4, and a POSITA would have recognized that UI buttons were well known and widely used for initiating action in a software system. (EX1002 ¶99.)

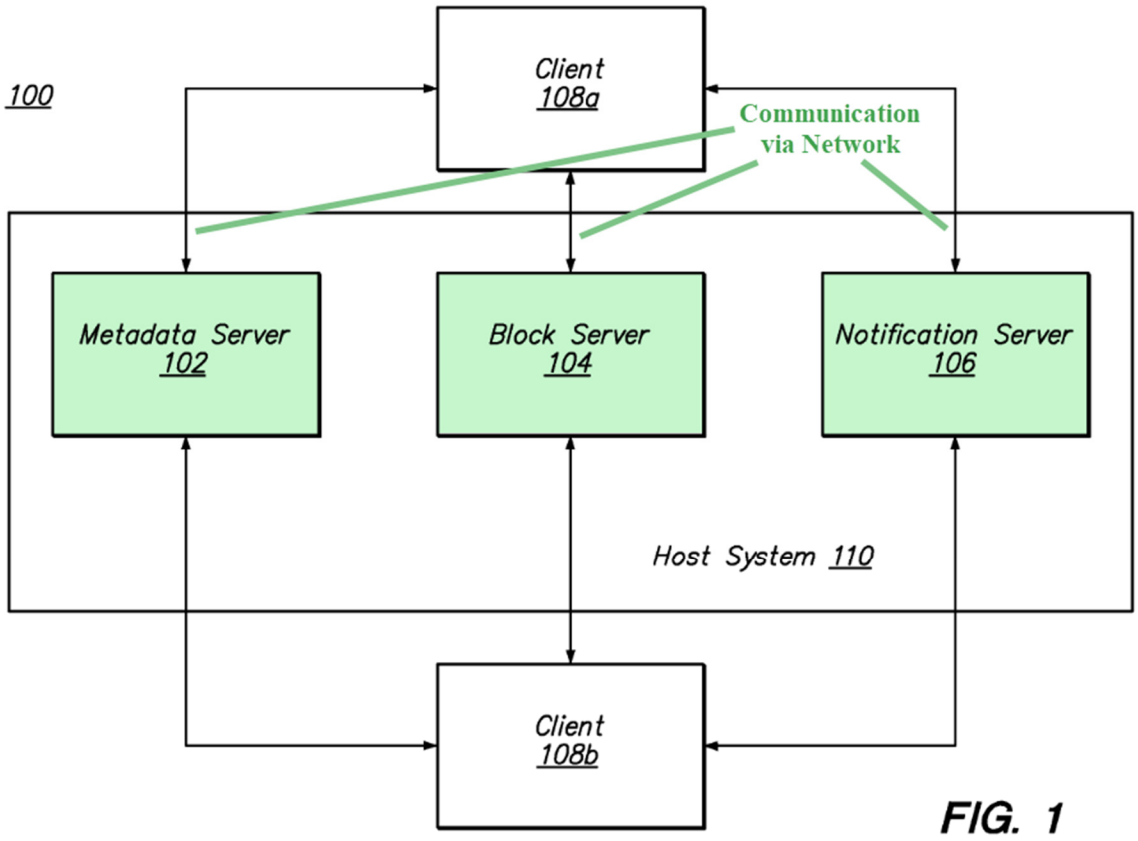
Accordingly, Houston discloses this limitation. (*Id.* ¶100.)

h) cause to be sent, from the first node via the at least one network, the indication of the selection of the third user interface element;

Houston discloses this feature. (EX1002 ¶¶101-103.) For example, Houston discloses that, when a user selects the share folder button, such as the "Share folder" button shown in Figure 4 ("the third user interface element"), an indication to share the folder with the identified user(s) is communicated from the client 108a ("cause to be sent, from the first node") through a network such as the Internet ("via the at least one network") to host system 110, so that it can then share the folder with other clients. (EX1005, 3:41-46, 7:33-48; Sections IX.A.2.b, d, f-g; EX1002 ¶101.)

For example, Houston discloses an "invention [that] enables synchronization of folders across multiple clients over a network," as shown by Figure 1 below. (EX1005, 1:53-54.) Folders are shared and synchronized through host system 110. (*Id*., 2:56-62, 3:22-24.) The servers of host system 110 facilitate communication and

synchronization of information associated with folders among the multiple clients. (*Id*., 2:63-3:46.) Houston discloses that a user may communicate instructions for sharing a folder to client 108a by providing a text string containing one or more email addresses of the user(s) with whom the folder is to be shared followed by selection of a button (e.g., Figure 4's "Share folder" button). (*Id*., 2:31-33, 3:40-45, 6:5-8, 7:32-38.)



(*Id.*, FIG. 1 (annotated).)

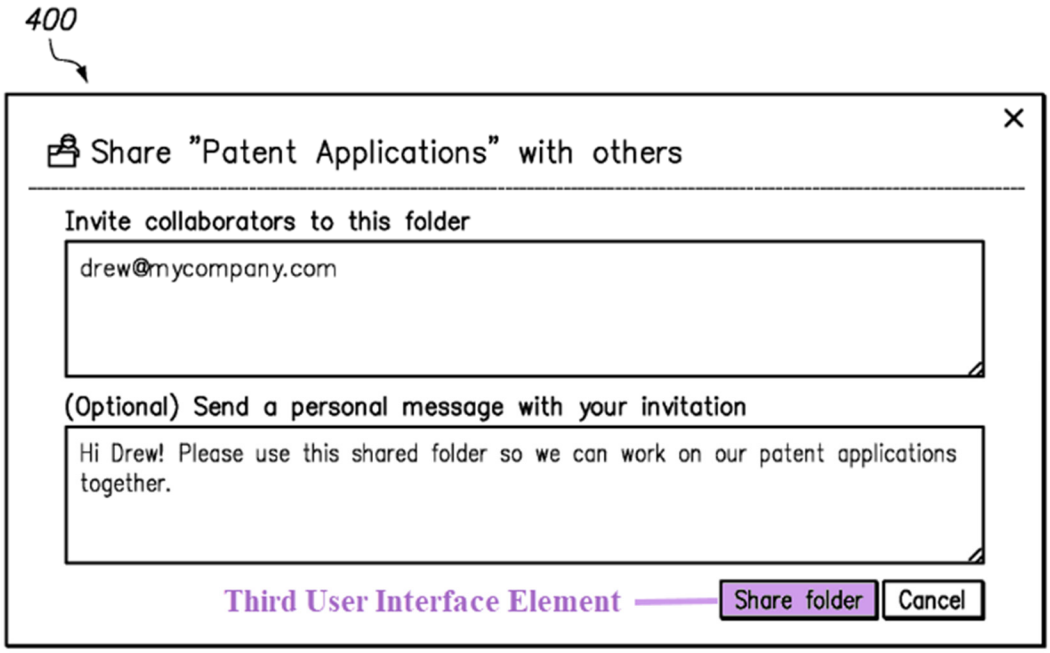


FIG. 4

(*Id.*, FIG. 4 (annotated).)

Accordingly, Houston discloses this limitation. (*Id.* ¶¶102-103.)

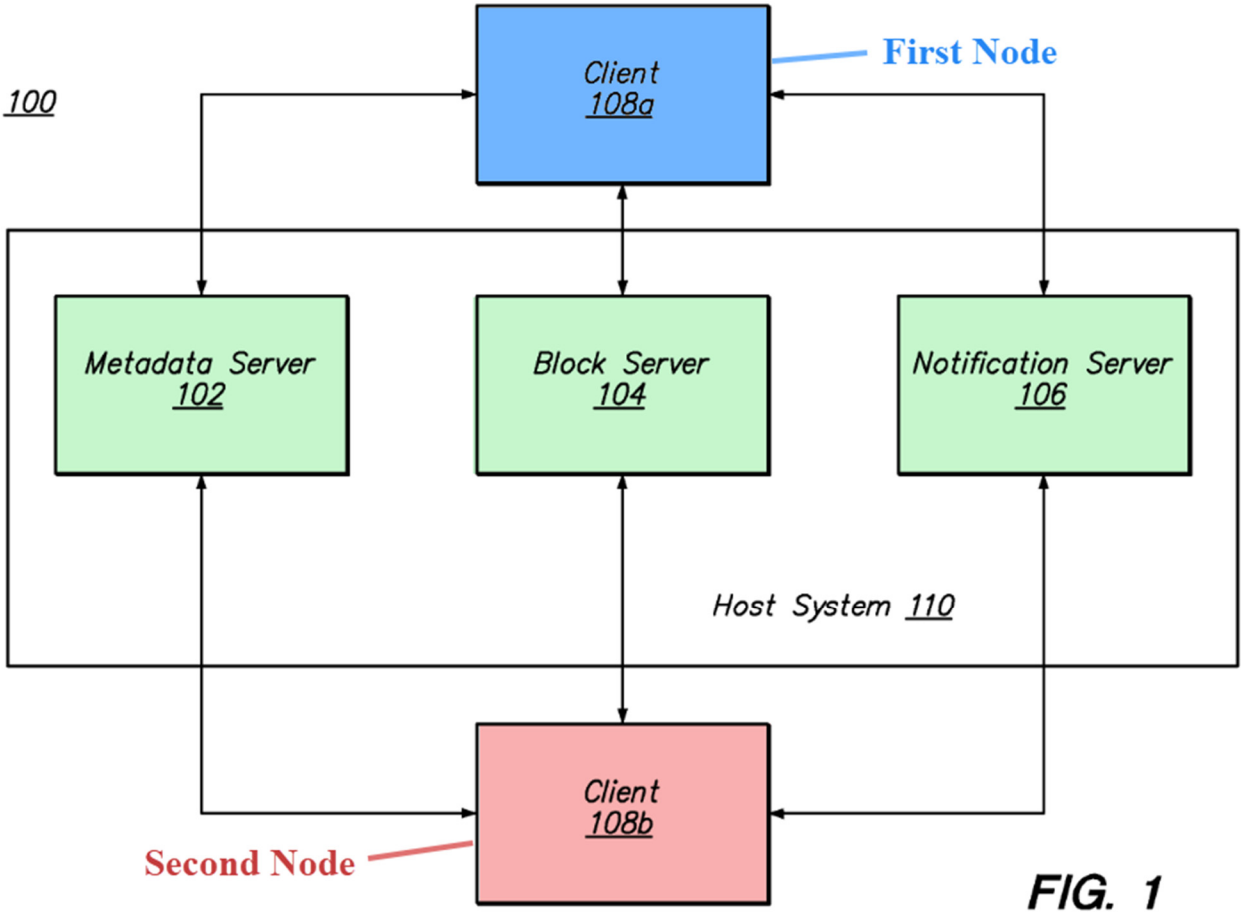
i) after the information associated with the at least one folder, the object associated with the at least one email address, and the indication of the selection of the third user interface element are caused to be sent via the at least one network; allow receipt, at a second node via the at least one network, at least one email message identifying the at least one folder and including a reference to the at least one folder, without including a file attachment with the at least one email message;

The combination of Houston and Garcia discloses or suggests this feature. (EX1002 ¶¶104-112.) As explained below, after the "information," "object," and "indication" are sent, the combination of Houston and Garcia discloses that client 108b receives an email message sent from host system 110 through a network

connection ("allow receipt, at a second node via the at least one network, at least one email message") that identifies the folder selected for sharing by the user of client 108a ("identifying the at least one folder") and includes a web link to the shared folder ("including a reference to the at least one folder") but does not attach the shared folder ("without including a file attachment with the at least one email message"). (*Id.* ¶¶104-108.)

For example, as shown in Figure 1 below, Houston discloses "a host system 110 and clients 108a, 108b." (EX1005, 2:60, 3:22-24, 5:42-44.) Client 108b constitutes a "second node." (EX1002 ¶105.) The host system 110 maintains synchronized shared folders across multiple clients through the use of multiple servers that facilitate communication of information associated with folders among the multiple clients. (EX1005, 1:53-54, 2:56-3:46.)

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(*Id.*, FIG. 1 (annotated).)

Houston discloses that when a user of client 108a initiates sharing of a folder, client 108a communicates the related information received from the user (*e.g.*, a name or identifier of the folder to be shared and a text string containing the one or more email addresses with whom the folder is to be shared) to host system 110 through a network connection, which then handles sharing the folder. (*Id.*, 3:41-46, 6:5-8, 7:32-48.) Houston discloses the user(s) whom host system 110 invites to share the folder (*e.g.*, the user of client 108b) may then accept the invitation to share the folder, after which metadata server 102 creates a link to the shared folder,

notification server 106 provides notifications to the user(s), and the user(s) obtain access to the folder by creating a copy on client 108b. (*Id.*, 1:29-32, 1:39-45, 1:59-2:2, 2:67-3:3, 5:52-60, 7:1-3, 7:18-58.)

Houston does not explicitly disclose that the second node receives an email message identifying the shared folder. (EX1002 ¶109.) Houston also does not explicitly disclose including a reference (*e.g.*, a link) to a shared folder in an email message without including a file attachment. (*Id.*)

However, as discussed above in Section IX.A.1, Garcia discloses sending an email with a web link (instead of an attachment) to a shared virtual folder to other clients. (EX1006, 10:32-40 ("The Web link tab 335 includes a list of folders or files that have been shared as a link with other users . . . and an icon 915[] places the link onto the clipboard to be copied into an email, text, or other transmittal."), 11:11-43, claim 3, FIGs. 11, 12; EX1002 ¶¶47-50, 110.) And, as discussed above in Section IX.A.1, it would have been obvious to a POSITA to modify Houston such that client 108b receives an email message from client 108a that identifies and includes a link to the shared folder without including a file attachment, similar to as described in Garcia. (EX1002 ¶¶53-57, 111.) Such a POSITA would have recognized the benefits (*e.g.*, no need to email and locally store folders and files, which may be large) and had a reasonable expectation of success combining these teachings of Houston and Garcia. (EX1002 ¶¶55, 57, 111; Section IX.A.1.)

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Accordingly, the combination of Houston and Garcia discloses this limitation. (EX1002 ¶112.)

j) after the information associated with the at least one folder, the object associated with the at least one email address, and the indication of the selection of the third user interface element are caused to be sent via the at least one network; cause creation, utilizing code sent to the second node to be stored on a storage at the second node and further to cooperate with a file explorer interface, of a representation of the at least one folder in a location among one or more folders on the file explorer interface, where the storage of the second node does not store any file in the at least one folder when the representation of the at least one folder is created; and

Houston alone and in combination with Garcia discloses this feature. (EX1002 ¶¶113-120.)

(1) Houston Discloses this Feature

After sending the above-referenced "information," "object," and "indication," Houston discloses that client 108b ("second node") includes storage containing an operating system and computer programs that may be downloaded and that interface with the operating system's file explorer application ("code sent to the second node to be stored on a storage at the second node and further to cooperate with a file explorer interface") to enable a user to add a copy of the shared folder ("creation . . . of a representation of the at least one folder") to a location on the local file system of client 108b ("in a location among one or more folders on the file explorer

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interface") so that, as modified by Garcia, the folder represents a virtual drive that is not stored at client 108b, but is viewable on client 108b's file explorer user interface ("the storage of the second node does not store any file in the at least one folder when the representation of the at least one folder is created"). (*Id*. ¶¶113-114.)

Houston states that the operations and functionality it discloses "are understood to be implemented by computer programs" and further that they "could be embodied in software, firmware or hardware, and when embodied in software, could be downloaded to reside on and be operated from different platforms used by real time network operating systems" ("code sent to the second node to be stored on a storage at the second node and further to cooperate with a file explorer interface"). (EX1005, 8:40-50, 8:64-9:4; EX1002 ¶115.) For example, Houston discloses that "[c]lient 108 executes an operating system . . . and includes memory, storage, a network interface, and other conventional computer hardware." (EX1005, 3:11-17.) Figure 5 below provides additional details regarding the components of client 108, including client database 502 and software modules involved in implementing Houston's system of sharing and synchronizing folders. (*Id.*, 3:47-53.)

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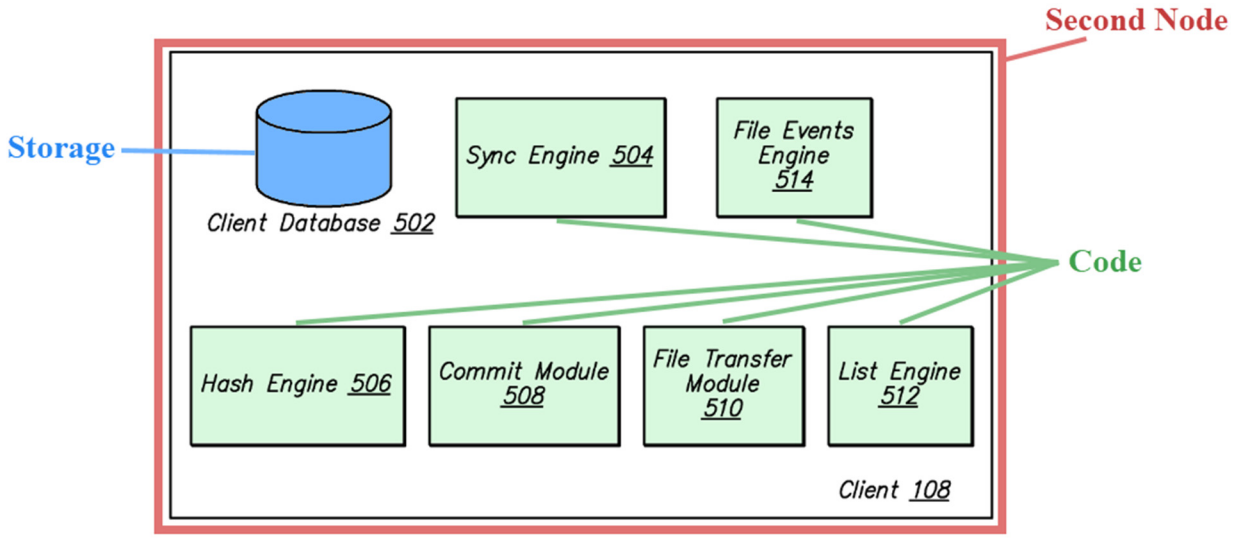


FIG. 5

(EX1005, FIG. 5 (annotated).)

Houston discloses that using client 108b ("the second node"), a user may add files and folders ("cause creation") on its local file system in a conventional manner via its operating system or other downloaded software ("further to cooperate with a file explorer interface"). (*Id.*, 3:18-20, 3:25-34, 3:55-59, 5:42-44, 8:64-9:4; EX1002 ¶116.) For example, Houston explains that "[c]lient 108 enables a user to create, modify and delete files on the client's local file system, and for those actions to be synchronized with versions of the same files on host system 110 and on one or more other client computers." (EX1005, 3:25-28; *see also id.*, 2:1-2, 5:36-6:8.) Further, the "My Dropbox" folder 1002 shown in Figure 10 is a shared folder that "is displayed next to other conventional folders such as 'My Meetings', 'My Received Files,' and others" ("a representation of the at least one folder in a location among one or more folders on the file explorer interface"). (*Id.*, 7:30-31; EX1002 ¶116.)

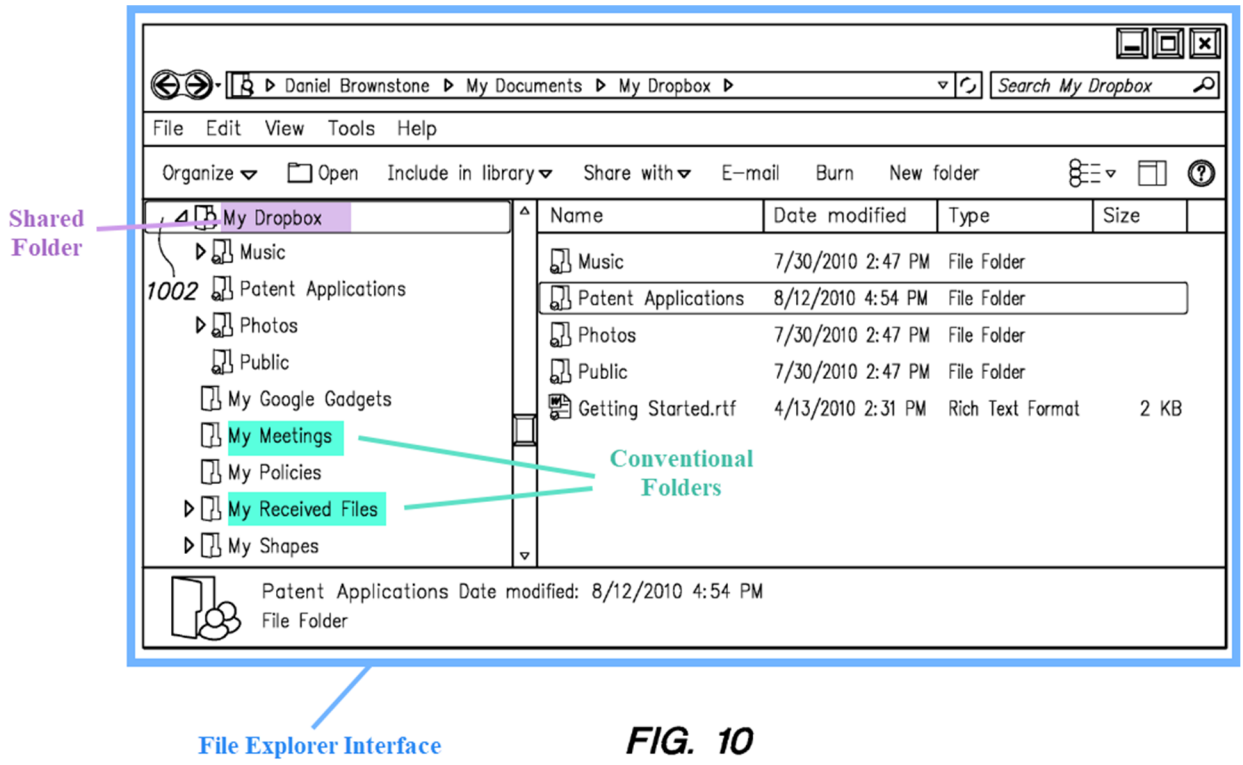


FIG. 10

(EX1005, FIG. 10 (annotated).)

Houston discloses using host system 110, as shown in Figure 1 below, to synchronize a folder created by one client among one or more additional clients. (*Id.*, Abstract, 3:22-24.)

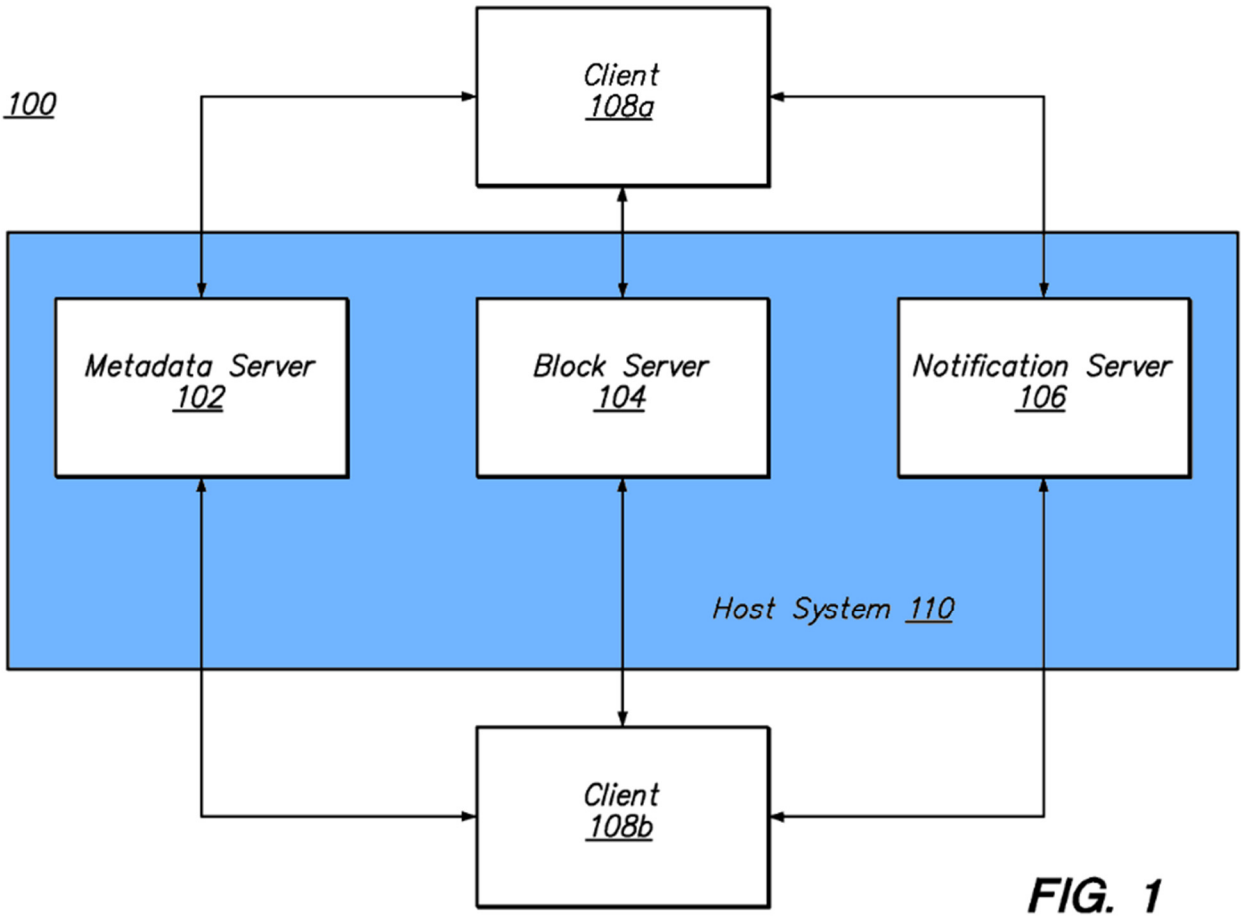


FIG. 1

(*Id.*, FIG. 1 (annotated).) Specifically, "a user creates a folder and designates it as one that should be synchronized" after which "its contents are synchronized with a host system." (*Id.*, 1:53-67, 3:25-30; *see also id.*, 2:57-62, 3:5-8.) When a user of client 108a invites a user of client 108b to share a folder, share instructions are communicated to, and the folder is synchronized on, host system 110. (*Id.*, 3:41-43, 5:42-45, 7:32-40.) The host system 110 can then perform a namespace mapping function to link the folder at client 108a with host system 110. (*Id.*, 7:18-48.)

When a user accepts an invitation to share a folder, host system 110 performs a namespace mapping function to link the folder at the host system 110 with the

invited user's client 108b, and the invited user receives a version of the folder that reflects the version at host system 110 ("a representation of the at least one folder"). (*Id.*, Abstract, 1:59-2:2, 3:25-28, 5:37-6:4, 7:49-58; EX1002 ¶¶117-118.) The version of the shared folder received by the invited user is then displayed and the user may access it through the standard user interface of client 108b's operating system, including its file explorer user interface, or other downloaded software. (*Id.*, 3:31-45, 5:42-51, 6:20-22, 7:18-58, 8:64-9:4.)

Thus, Houston discloses this feature.

(2) The Combination of Houston and Garcia Discloses this Feature

To the extent PO argues that Houston does not disclose this feature, it would have been obvious based on the combination of Houston and Garcia. (EX1002 ¶¶43-46, 120.) For example, as discussed above in Section IX.A.1, Garcia discloses the use of a "virtual drive" that allows remote folders to be viewed and accessed using a device's local file system and that a representation of such a folder may be created and viewed by a user, which discloses the claimed feature. (EX1006, 2:37-41 ("A user may be able to access, via the user interface, a virtual drive on the local device, where, via the virtual drive, a user is able to access items (e.g., files) in any object (e.g., folders), including objects located only on a remote device"), 2:66-3:3, 4:53-5:3, 4:51-57, 5:4-13, 5:27-32, 5:32-39, 6:5-27, 7:11-33, 10:52-11:10, claim 4, FIGs.

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10, 20a.) And, as discussed above in Section IX.A.1, based on such teachings, a POSITA would have found it obvious to modify Houston such that code sent to and stored on client 108b (*e.g.*, downloaded code illustrated in Figure 5) creates a representation of a shared virtual folder in a location among one or more other virtual and/or local folders without storing the folder's contents, similar to as described in Garcia. (EX1002 ¶¶43-46, 120.) Such a POSITA would have recognized the benefits (*e.g.*, enabling greater control and file management) and had a reasonable expectation of success combining these teachings of Houston and Garcia. (EX1002 ¶¶53-57, 120; Section IX.A.1.)

k) cause display, at the second node, of the representation of the at least one folder in the location among the one or more folders on the file explorer interface.

Houston alone and in combination with Garcia discloses this feature. (EX1002 ¶121.) For example, as discussed in Section IX.A.2.j., Houston alone and in combination with Garcia discloses that a shared folder ("representation of the at least one folder") may be created through the standard user interface of the local file system, or other software program, of the client of a user with whom the folder is shared ("in the location among the one or more folders on the file explorer interface"). (EX1002 ¶¶46, 50-51, 121.) For the same reasons, Houston alone and in combination with Garcia also discloses that such a shared folder is made visible ("cause display") through the standard user interface of the local file system, or other

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software program, of the client of a user with whom the folder is shared ("at the second node"). (*Id.*; Section IX.A.2.j.)

3. Claim 2

a) The method of claim 1, wherein the object associated with the at least one email address includes the at least one email address or an alias, and

Houston discloses this feature. (EX1002 ¶¶122-123.) For example, Houston discloses a window UI with a text box that allows a user to input a text string that identifies the user(s) with whom to share a folder, such as one or more email addresses or other account identifiers associated with email addresses ("the object associated with the at least one email address includes the at least one email address or an alias"). (Section IX.A.2.e.) Figure 4 below demonstrates that Houston discloses a portion of a window UI labeled "Invite collaborators to this folder" capable of receiving as a text string the email addresses of intended recipients of a shared folder. (EX1005, 2:31-33, 3:41-43.) Houston further discloses the object being an "alias." (*Id.,* 7:39-40 ("[T]he user also specifies the account identifier of the user(s) with whom the folder is to be shared."), 7:53-54 ("Metadata server 102 also adds the invited user's identifier to the list of users sharing the folder[.]"); EX1002 ¶122.)

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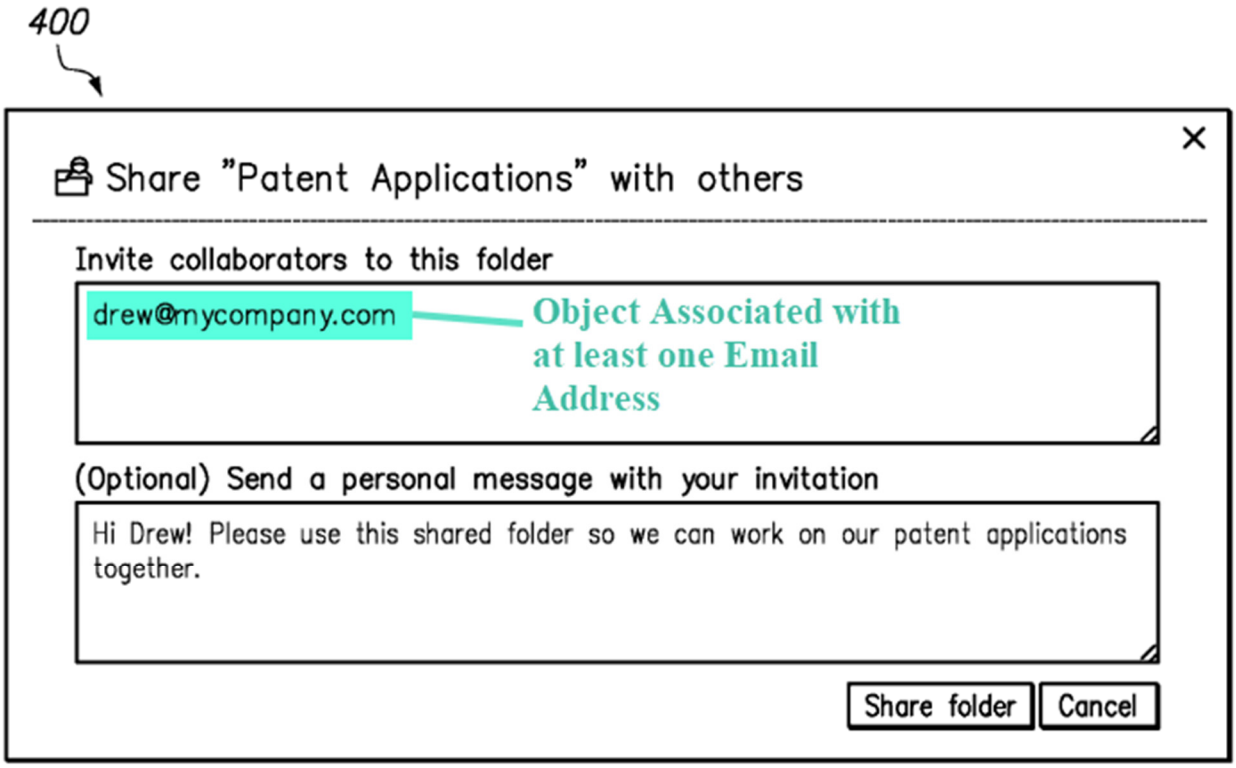


FIG. 4

(*Id.*, FIG. 4 (annotated).) As discussed above in Sections VIII.A.2.c and VIII.A.2.e, Houston provides the same teachings with respect to Figures 10 and 11.

This teaching is consistent with the specification and claims of the '737 patent, which explain that a text string, such as a text string representing an email address, may be considered an "object." (EX1001, claim 2, 39:60-63; EX1002 ¶123.)

b) the file explorer interface is displayed using a file explorer client application and not via a web page;

Houston discloses this feature. (EX1002 ¶124.) For example, Houston discloses that shared folders may be accessed using the local file system of client 108 via its operating system in a conventional manner. (EX1005, 2:10-12, 3:18-46

("In one embodiment, a user can create a shared synchronized folder either through a user interface portion of client 108, or via a web server."), 7:19-21, 7:37-40.) Further, Houston discloses that "FIG. 10 and FIG. 11 provide a view of how a folder can be shared using software on client 108." (*Id.*, 3:43-45.)

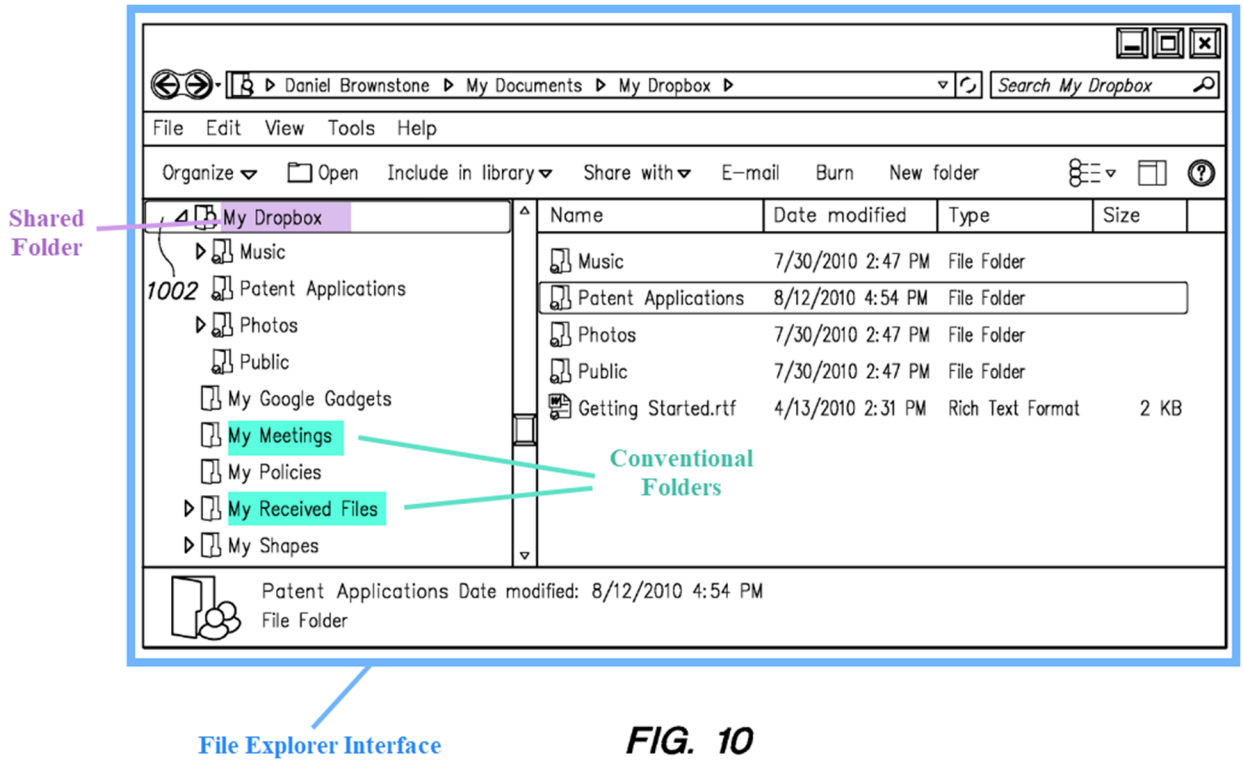


FIG. 10

(*Id.*, FIG. 10 (annotated).)

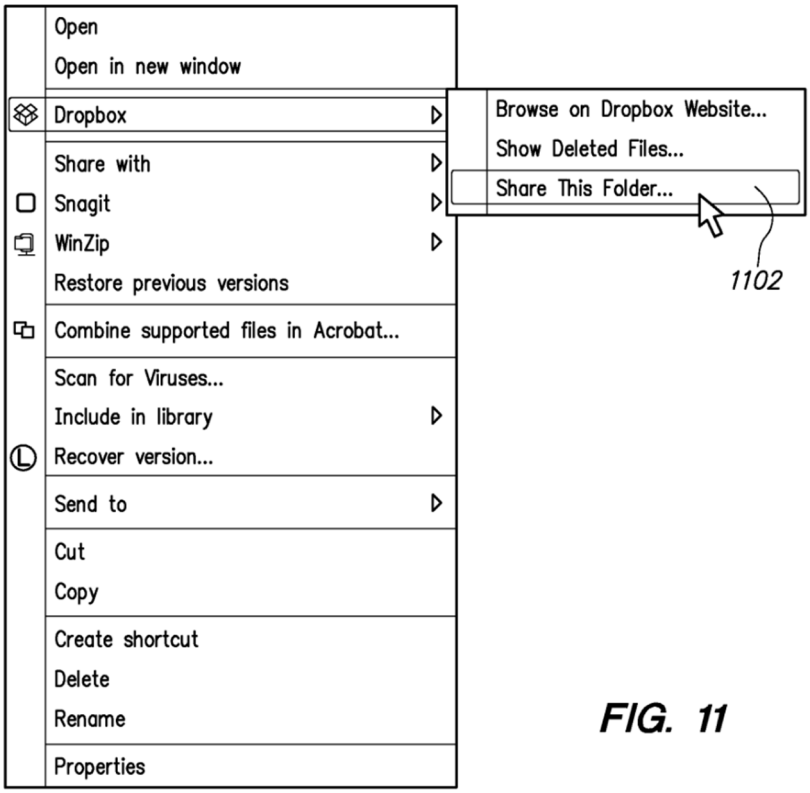


FIG. 11

(*Id.*, FIG. 11.)

c) wherein the at least one email message is sent without including the file attachment with the at least one email message, and

Claim element 2.c recites features substantially the same as those recited in claim element 1.i. Thus, the combination of Houston and Garcia discloses this feature for at least the same reasons. (EX1002 ¶125; Section IX.A.2.i.)

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d) the storage at the second node does not store any file in response to the representation of the at least one folder being created, both for avoiding any file from having to be communicated to and stored at the second node until requested by at least one user at the second node.

The combination of Houston and Garcia discloses this feature for at least the same reasons as discussed for claim element 1.j. (EX1002 ¶¶126-128.) For example, as explained above with respect to claim element 1.j and in the Summary of the Combination and Reasons to Combine, Houston discloses that client 108b includes storage ("the storage at the second node") and executes an operating system and computer programs that enable client 108b to display a shared folder ("the representation of the at least one folder being created") through a standard user interface of its local file system, and, as modified based on Garcia, the shared folder (and the files it contains) represents a virtual drive stored remotely. (Sections IX.A.1, 2.j.) As Garcia further explains, and as a person of ordinary skill in the art would have been encouraged to implement in Houston's system, only "when a user double clicks on a file or item in a remote folder in the virtual drive" does "the server download[] its copy of the file/item to the local synchronization software client (i.e., the client currently being used by the user)." (EX1006, 5:32-39; *see also id.*, 2:66-3:3, 7:11-33, 10:52-11:10, claim 4; EX1002 ¶¶52, 126.) A person of ordinary skill would have combined Houston and Garcia in such a way for the same reasons discussed above for claim element 1.j. (EX1002 ¶¶53-57, 127; Section IX.A.2.j.)

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4. Claim 3

a) An apparatus, comprising:

Claim element 3.a recites features substantially the same as those recited in claim element 1.a. Thus, the combination of Houston and Garcia discloses this feature for at least the same reasons. (EX1002 ¶129; Section IX.A.2.a.)

b) at least one non-transitory memory storing instructions; and

Claim element 3.b recites features substantially the same as those recited in claim element 1.a. Thus, the combination of Houston and Garcia discloses this feature for at least the same reasons. (EX1002 ¶130; Section IX.A.2.a.)

c) one or more processors in communication with the at least one non-transitory memory, wherein the one or more processors execute the instructions to:

Claim element 3.c recites features substantially the same as those recited in claim element 1.a. Thus, Houston discloses these features for at least the same reasons. (EX1002 ¶¶131-133; Section IX.A.2.a.)

For example, Houston discloses an apparatus storing a computer program on a non-transitory computer readable storage medium ("non-transitory memory"), such a program including instructions capable of, when executed by processors ("processors execute the instructions"), performing the disclosed functions within Houston. (EX1002 ¶132.) The apparatus "may comprise a general-purpose computer selectively activated or reconfigured by a computer program," where the computer

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program "may be stored on a non-transitory computer readable storage medium." (EX1005, 9:5-18.) Furthermore, Houston's claims recite:

> A computer program product for synchronizing a folder across a computer network, the computer program product stored on a non-transitory computer readable medium and including instructions that when loaded into memory ***cause a computer processor to carry out the steps of***:

(*Id.*, claim 5.)

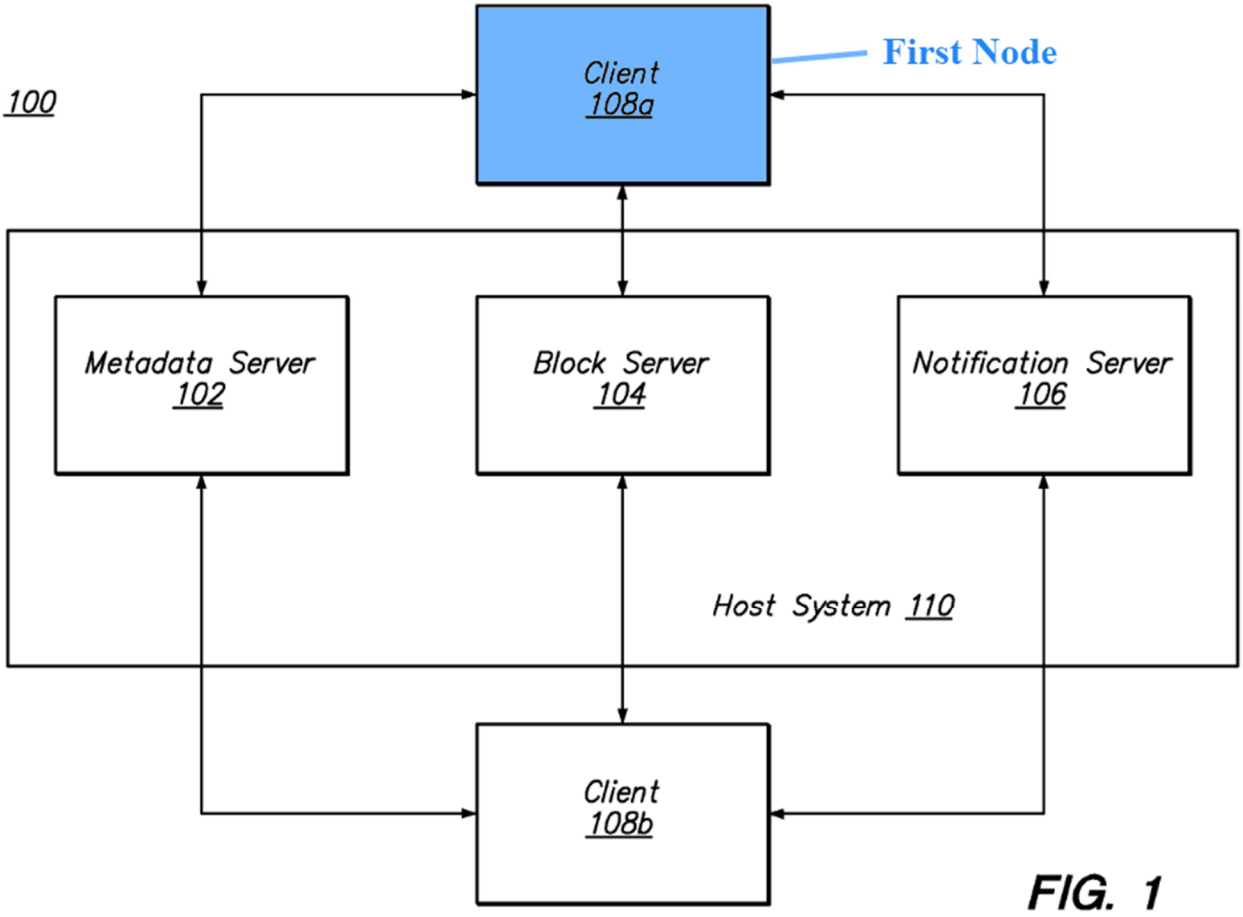
Accordingly, the combination of Houston and Garcia discloses this limitation. (EX1002 ¶133.)

d) send first hypertext markup language-equipped code via at least one network to a first node,

Houston discloses this feature. (EX1002 ¶¶134-138.) For example, as discussed below, Houston discloses web-based ("hypertext markup language-equipped code") UI windows that may be accessed by a user's client ("send . . . to a first node") via a web server ("via at least one network"). (*Id.* ¶134.)

For the reasons discussed above with respect to claim element 1.b, Houston's client 108a constitutes "a first node." (*Id.* ¶135; Section IX.A.2.b.)

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(EX1005, FIG. 1 (annotated).)

Houston further discloses "a web interface" ("hypertext markup language-equipped code") that "allows access to shared folders from any computer with network access" ("via at least one network"). (*Id.*, 2:11-12; *see also id.*, 1:10-12 ("a web interface allows access to shared folders"); 3:31-34; 3:34-35; 7:37-40.) Such web interfaces were widely known by POSITAs to require the use of HyperText Markup Language, which satisfies "hypertext markup language-equipped code." (EX1002 ¶136; EX1007, 347, 357; EX1008, 381.)

Thus, Houston's disclosure of a web interface discloses utilizing "hypertext markup language-equipped code," or at least suggests utilizing such code, which, as the above-cited publications demonstrate, was used to create and display such web interfaces. (EX1002 ¶137.) A person of ordinary skill in the art would have had good reason to use such code, as it would have enabled users to access virtual folders over a network like the Internet using the standard markup language for web browsers. (*Id.*)

Thus, Houston discloses this feature. (*Id.* ¶138.)

e) for causing, at the first node, display of at least one first interface with a first user interface element, utilizing the first hypertext markup language-equipped code that is sent via the at least one network, and

Houston discloses this feature. (EX1002 ¶¶139-142.) For the reasons discussed above with respect to claim element 1.b, Houston's teachings relating to Figures 3 and 10 disclose a user interface window ("causing . . . display of at least one first interface") on a client device ("at the first node") that allows a user to select a folder to share ("with a first user interface element"). (*Id.* ¶139; Sections IX.A.2.b.) As discussed below, Houston teaches that Figures 3 and 10 can be implemented via a web interface ("utilizing the first hypertext markup language-equipped code that is sent via the at least one network"). (EX1002 ¶139; Section IX.A.4.d.)

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Regarding Figure 3, while Houston does not explicitly state how UI window 300 is implemented (EX1005, 2:28-30; 3:38-40, FIG. 3),[7] a POSITA would have understood that Houston discloses that UI window 300 could have been implemented via a web server. (EX1002 ¶140.) And while Houston explains that the interfaces in Figures 10 and 11 are implemented "using software on client 108" (EX1005, 3:43-46), Houston discloses that those interfaces could also have been implemented via a web server. Indeed, according to Houston, each of the disclosed user interface elements discussed above with respect to claim element 1.b, can be implemented via a web interface. (*Id.*, 2:10-12, 3:31-43, 3:43-46, 7:18-21, 7:37-40, FIGs. 2-4, 10, 11.) For example, Houston explains that "a user can create a shared synchronized folder either through a user interface portion of client 108, or via a web server." (*Id.*, 3:31-34.)

As discussed above in Section IX.A.4.d, such web interfaces were widely known to require a user requesting the use of the interface to be sent HyperText Markup Language representing the interface." (EX1002 ¶141.)

Thus, Houston discloses this feature. (EX1002 ¶142.)

[7] Figure 3, however, is described in the context of Figure 2, which "illustrates a user interface window 200 accessed via a web server." (EX1005, 3:34-35.)

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f) for allowing receipt, from the first node via the at least one network, an indication of at least one folder that is received via the first user interface element of the at least one first interface;

Houston discloses this feature. (EX1002 ¶143.) For the reasons discussed above with respect to claim element 1.c, Houston discloses that the UIs illustrated in Figures 3, 10, and 11 allow a user to select a folder for sharing, which results in information associated with the selected folder ("an indication of at least one folder via the first user interface element, utilizing the at least one first interface") being received by the client ("for allowing receipt"). (*Id.*; Section IX.A.2.c.)

g) send second hypertext markup language-equipped code via the at least one network to the first node,

Claim element 3.g recites features substantially the same as those recited in claim element 3.d. Thus, Houston discloses this feature for at least the same reasons. (EX1002 ¶144; Section IX.A.4.d.)

h) for causing, at the first node, display of at least one second interface with a second user interface element, utilizing the second hypertext markup language-equipped code that is sent via the at least one network,

Houston discloses this feature. (EX1002 ¶¶145-147.) For the reasons discussed above with respect to claim elements 1.b and 3.e, Houston's teachings relating to Figures 4, 10, and 11 each discloses a user interface window ("causing . . . display of at least one second interface") on a client device ("at the first node") including a text entry field ("with a second user interface element") that allows a

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user to input information identifying user(s) with whom a folder may be shared. (*Id.* ¶145; Sections IX.A.2.b, 4.e.) Houston further teaches that Figures 4, 10, and 11, including the text entry field, can be implemented via a web interface ("utilizing the second hypertext markup language-equipped code that is sent via the at least one network"). (EX1002 ¶146.) For example, similar to UI window 300 in Figure 3, while Houston does not explicitly state how UI window 400 in Figure 4 is implemented (EX1005, 2:31-33, 3:40-43, FIG. 4),[8] a POSITA would have understood that Houston discloses that UI window 400 could have been implemented via a web server. (EX1002 ¶146.) And while Houston explains that the interfaces in Figures 10 and 11 are implemented "using software on client 108" (EX1005, 3:43-46), Houston discloses that those interfaces could have also been implemented via a web server. Indeed, as discussed above with respect to claim element 3.e, according to Houston, each of the disclosed user interface elements discussed above with respect to claim element 1.b can be implemented via a web interface. (EX1002 ¶147; Section IX.A.4.e.)

[8] Figure 4, however, is described in the context of Figure 2, which "illustrates a user interface window 200 accessed via a web server." (EX1005, 3:34-35.)

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i) for allowing receipt, from the first node via the at least one network, indicia associated with at least one email address that is received via the second user interface element of the at least one second interface and

Because claim element 3.i recites features substantially the same as those recited in claim element 1.e, Houston discloses this feature for at least the same reasons. (EX1002 ¶148; Section IX.A.2.e.) For example, Houston's teachings relating to Figures 4, 10, and 11 disclose a user interface window with a display area including a text box ("second user interface element") that allows a user to input, and therefore causing the client ("first node") to receive ("for allowing receipt"), a text string ("utilizing the at least one second interface"), that contains one or more account identifiers, such as email addresses or some other identifier associated with an email address ("indicia associated with at least one email address") of a user with whom a folder may be shared. (EX1002 ¶148.)

j) for allowing receipt, from the first node via the at least one network, an indication to share the at least one folder;

Houston discloses this feature. (EX1002 ¶149.) For the reasons discussed above with respect to claim element 1.g, Houston discloses a share folder button (*e.g.*, the "Share Folder" button in Figure 4), which allows a user to input a user interface command ("indication to share the at least one folder") that is received

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("for allowing receipt") by the client ("first node") and sent to the host system. (*Id.* ¶149; Section IX.A.2.g.)

k) based on the receipt of the indication of the at least one folder, the indicia associated with the at least one email address, and the indication to share the at least one folder via the at least one network; cause generation of at least one email message identifying the at least one folder and including a reference to the at least one folder, without including at least one file in the at least one folder as an attachment of the at least one email message;

The combination of Houston and Garcia discloses this limitation. (EX1002 ¶150.) For the reasons discussed above with respect to claim elements 1.b-i and 3.e-j, the combination of Houston and Garcia discloses client 108a sending to the host system 110 through a network connection ("receipt . . . via the at least one network") a user's selection of a folder designated by an identifier or name ("the indicia of the at least one folder"), entry of a text string containing one or more email addresses ("the indicia associated with the at least one email address") with whom the user wishes to share a folder, and a user's selection of a share folder button ("the indication to share the at least one folder") to generate an email with a web link to the shared folder ("identifying the at least one folder and including a reference to the at least one folder, without including at least one file in the at least one folder as an attachment of the at least one email message.") (*Id.*; Sections IX.A.2.b-i, 4.e-j.)

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l) cause to be sent, to a second node via the at least one network, the at least one email message, without including the at least one file in the at least one folder as an attachment of the at least one email message;

Claim element 3.l recites features substantially the same as those recited in claim element 1.i. Thus, Houston alone and in combination with Garcia discloses this feature for at least the same reasons. (EX1002 ¶151; Section IX.A.2.i.)

m) send particular code via the at least one network to the second node for storage at the second node and cooperation with a file explorer interface,

Houston alone and in combination with Garcia discloses this feature for at least the same reasons as discussed for claim element 1.j. (EX1002 ¶152; Section IX.A.2.j.) In addition, Houston's broad disclosures are not limited to any specific combination of web-based or client software-based implementation of the interfaces the users use to perform its folder-sharing methods. (EX1005, 2:10-12, 2:25-33, 2:48-52, 3:25-45, 7:18-40, 8:33-36 ("the particular division of functionality between the various system components described herein is merely exemplary, and not mandatory"), FIGs. 2-4, 10, 11.) Thus, based on Houston's teachings, one client (*e.g.*, the "first node") can utilize web-based interfaces while another client (*e.g.*, the "second node") can utilize client software-based interfaces. (EX1002 ¶152.)

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n) for causing, based on the receipt of the indication of the at least one folder, the indicia associated with the at least one email address, and the indication to share the at least one folder via the at least one network: creation of a representation of the at least one folder in a location among one or more folders on the file explorer interface, where the second node is not caused to store the at least one file when the creation of the representation of the at least one folder is caused, and for:

Claim element 3.n recites features substantially the same as those recited in claim element 1.j. Thus, Houston alone and in combination with Garcia discloses this feature for at least the same reasons. (EX1002 ¶153; Section IX.A.2.j.)

o) causing, at the second node, display of the representation of the at least one folder in the location among the one or more folders on the file explorer interface;

Claim element 3.o recites features substantially the same as those recited in claim element 1.k. Thus, the combination of Houston and Garcia discloses these features for at least the same reasons. (EX1002 ¶154; Section IX.A.2.k.)

p) allowing detection, at the second node, of an indication to open the at least one file in the at least one folder; and

Houston discloses this feature. (EX1002 ¶¶155-158.) Houston discloses that the user(s) with whom the folder is shared are able to access and modify ("allowing detection, at the second node, of an indication to open") files contained within shared folders ("the at least one file in the at least one folder"). (*Id*. ¶155; Section IX.A.3.q.)

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For example, Houston discloses that users with whom a synchronized folder is shared may access and modify files contained within the folder. (EX1005, 3:25-28 ("Client 108 enables a user to create, modify and delete files on the client's local file system, and for those actions to be synchronized with versions of the same files on host system 110 and on one or more other client computers."), 6:3-4, 6:20-22, 6:38-40.)

As shown in Figures 10 and 11 below, a user may use its operating system's file explorer interface or a web interface to open a shared folder and access and/or modify the file(s) within it. (*Id.*, 3:25-45, 6:20-22, 7:18-58.)

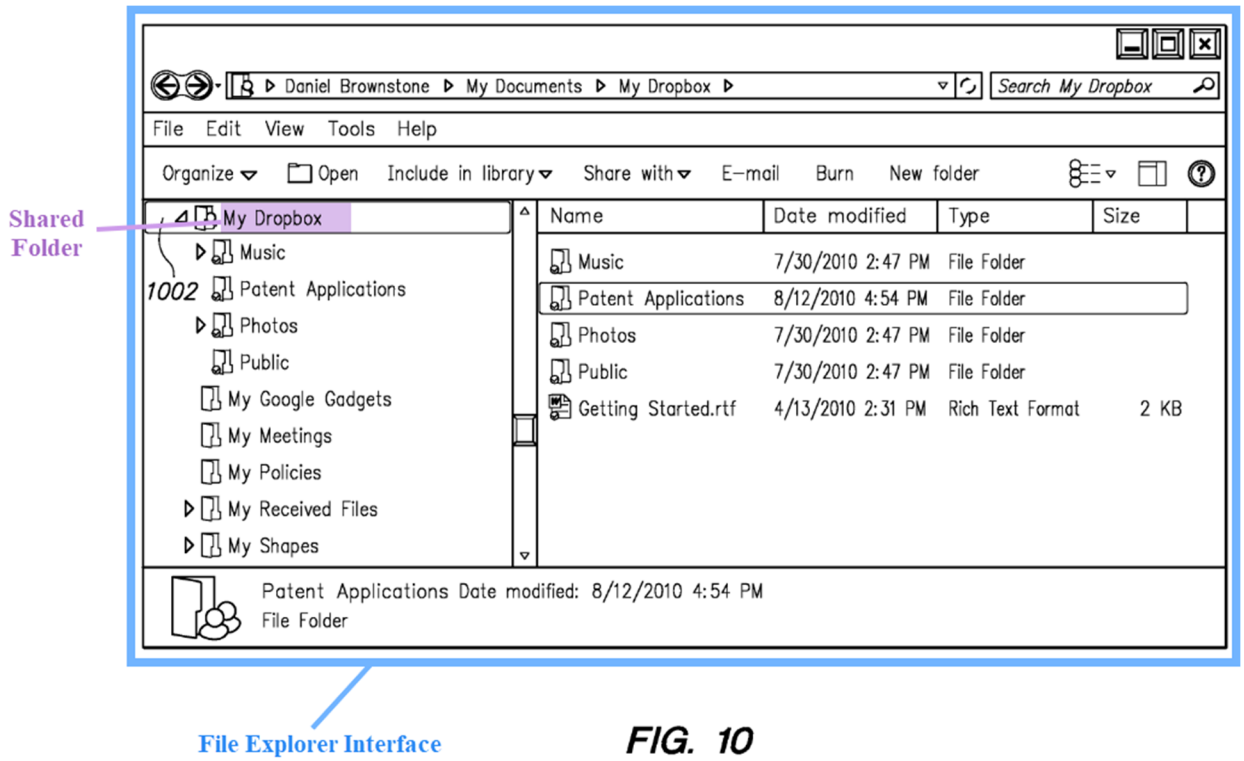


FIG. 10

(*Id.*, FIG. 10 (annotated).)

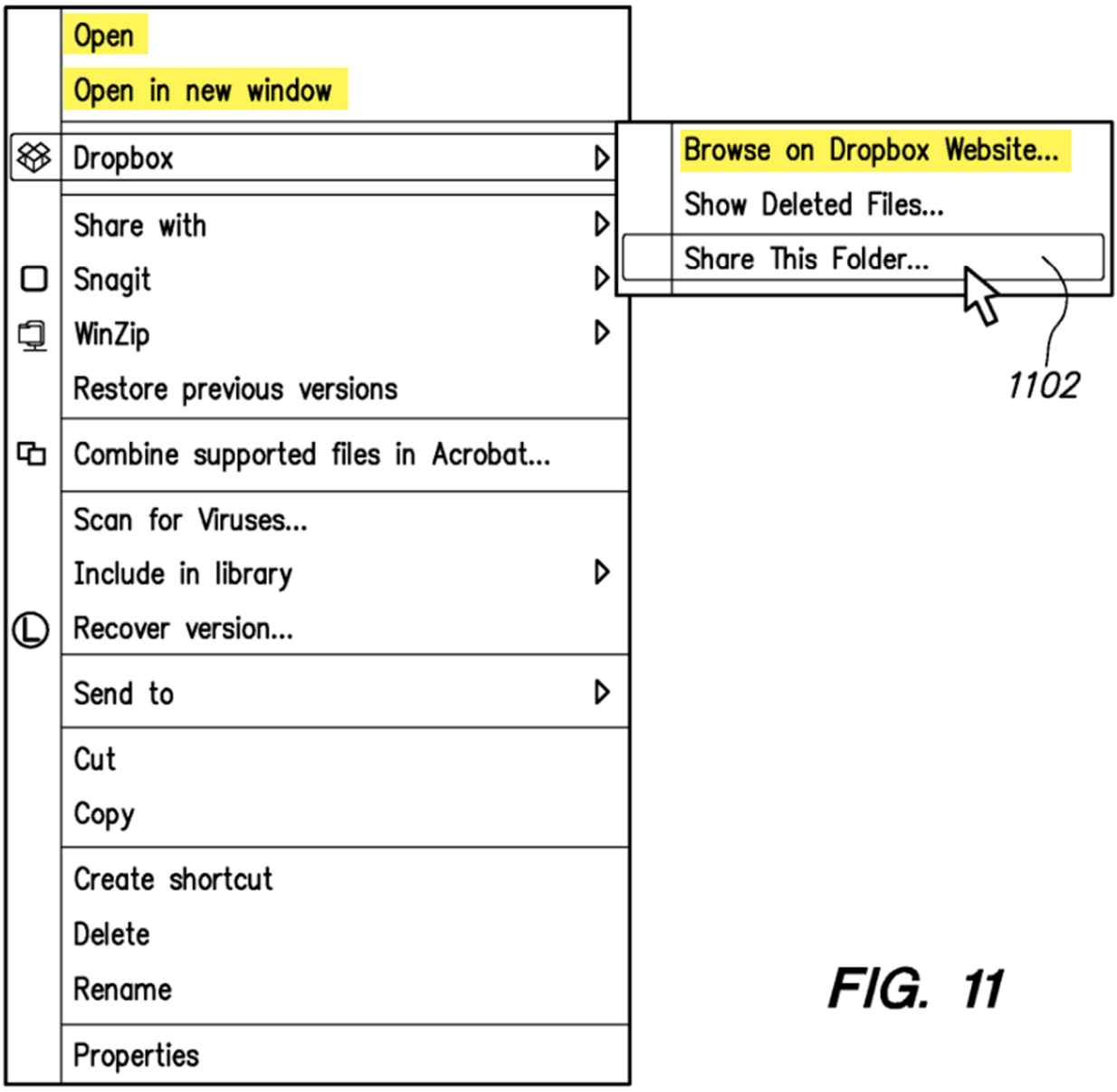


FIG. 11

(*Id.*, FIG. 11 (annotated).)

To modify a file within a shared folder, a user must open the file, which requires that the client receive an indication to open the file, which is communicated to the host system. (*Id.*, 7:11-14 ("[U]pon instruction from a user of a client 108, metadata server 102 instructs block server 104 to provide a file consisting of the

blocks in the previous version. This enables a user to preview an earlier version, and if desired, to restore it to the current version[.]"), 7:50-58, 8:14-21.)

q) in response to detection of the indication to open the at least one file in the at least one folder, causing retrieval of the at least one file via the at least one network for permitting display of the at least one file at the second node.

The combination of Houston and Garcia discloses this feature. (EX1002 ¶¶159-162.) For the reasons discussed above with respect to claim elements 1.j, 2.d, and 4.p, and as further discussed below, the combination of Houston and Garcia discloses that the user(s) with whom the folder is shared are able to access ("detection of the indication to open") files contained within shared, virtual folders ("the at least one file in the at least one folder") by obtaining a local version of the file ("causing retrieval of the at least one file") from the host system ("via the at least one network") when the user selects the file to view and/or modify ("permitting display of the at least one file"). (*Id.* ¶159; Sections IX.A.2.j, 3.d, 4.p.)

For example, Houston discloses that users may access and modify files contained within a shared folder by obtaining a copy of the file and storing it locally. (EX1005, 3:25-28 ("Client 108 enables a user to create, modify and delete files on the client's local file system, and for those actions to be synchronized with versions of the same files on host system 110 and on one or more other client computers."), 6:3-4, 6:20-22, 6:38-40, 7:11-14, 7:50-58.)

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But Houston does not disclose, "in response to detection of the indication to open the at least one file in the at least one folder, causing retrieval of the at least one file via the at least one network for permitting display of the at least one file at the second node." However, this feature would have been obvious based on the combination of Houston and Garcia. (EX1002 ¶161.) For example, as discussed above in Section IX.A.1, Garcia discloses a user double-clicking a file within a shared folder ("detection of the indication to open at least one file in the at least one folder"), which then causes the file to be downloaded ("causing retrieval of the at least one file via the at least one network for") in order for the user to modify it ("permitting display of the at least one file"). (EX1006, 2:66-3:3, 5:4-13, 5:32-43 ("In one embodiment, when a user double clicks on a file or item in a remote folder in the virtual drive, the server downloads its copy of the file/item to the local synchronization software client (i.e., the client currently being used by the user)."), 6:5-27, 10:52-11:10, claim 4, FIG. 20a.) And, as discussed above in Section IX.A.1, it would have been obvious for a POSITA to modify Houston's system such that client 108b only retrieves files when needed, such as when selected, similar to as taught by Garcia. (EX1002 ¶¶46, 51-52, 161.) Such a POSITA would have recognized the benefits (*e.g.*, no need to locally store folders and files, which may be large, until needed) and had a reasonable expectation of success combining these teachings of Houston and Garcia. (EX1002 ¶¶53-57, 162; Section IX.A.1.)

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5. Claim 4

a) The apparatus of claim 3, wherein the apparatus is configured such that the indicia associated with the at least one email address includes an alias associated with the at least one email address.

Houston discloses this feature for at least the same reasons discussed for claim elements 2.a and 3.i. (EX1002 ¶163; Sections IX.A.3.a, 4.i.)

6. Claim 5

a) The apparatus of claim 3, wherein the apparatus is configured such that the indicia associated with the at least one email address includes the at least one email address.

Houston discloses this feature for at least the same reasons discussed for claim elements 2.a and 3.i. (EX1002 ¶164; Sections IX.A.3.a, 4.i.)

7. Claim 13

a) The apparatus of claim 3, wherein the apparatus is configured such that, when the creation of the representation of the at least one folder is caused, an additional representation on the file explorer interface is caused to be created that represents the at least one file, where the file explorer interface is displayed by a file explorer client application without a web page.

Houston alone and in combination with Garcia discloses this feature. (EX1002 ¶¶165-171.) Claim 13 recites "the creation of the representation of the at least one folder is caused" and "the file explorer interface is displayed by a file explorer client application without a web page," which are features substantially the same as those recited in claim elements 1.j and 2.b, respectively. Thus, the combination of Houston

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and Garcia discloses these features for at least the same reasons discussed for claim elements 1.j and 2.b. (*Id.* ¶165; Sections IX.A.2.j, 3.b.)

As explained below, Houston discloses that shared folders may contain files ("the at least one file") presented to a user with whom a folder is shared via the operating system of the user's client through a standard user interface on the local file system ("an additional representation on the file explorer interface is caused to be created"). It would have been obvious based on Garcia for such folders and files to comprise virtual files represented on the client. (EX1002 ¶166.)

For example, Houston specifically discloses shared folders containing files, such as "Getting Started.rtf" shown in Figure 10 below. (EX1005, Abstract ("A first user of a first client instantiates a folder to be shared, and the folder and its contents are synchronized with a host system."), 1:53-2:18, 3:5-10, 7:26-28, 8:16-18.)

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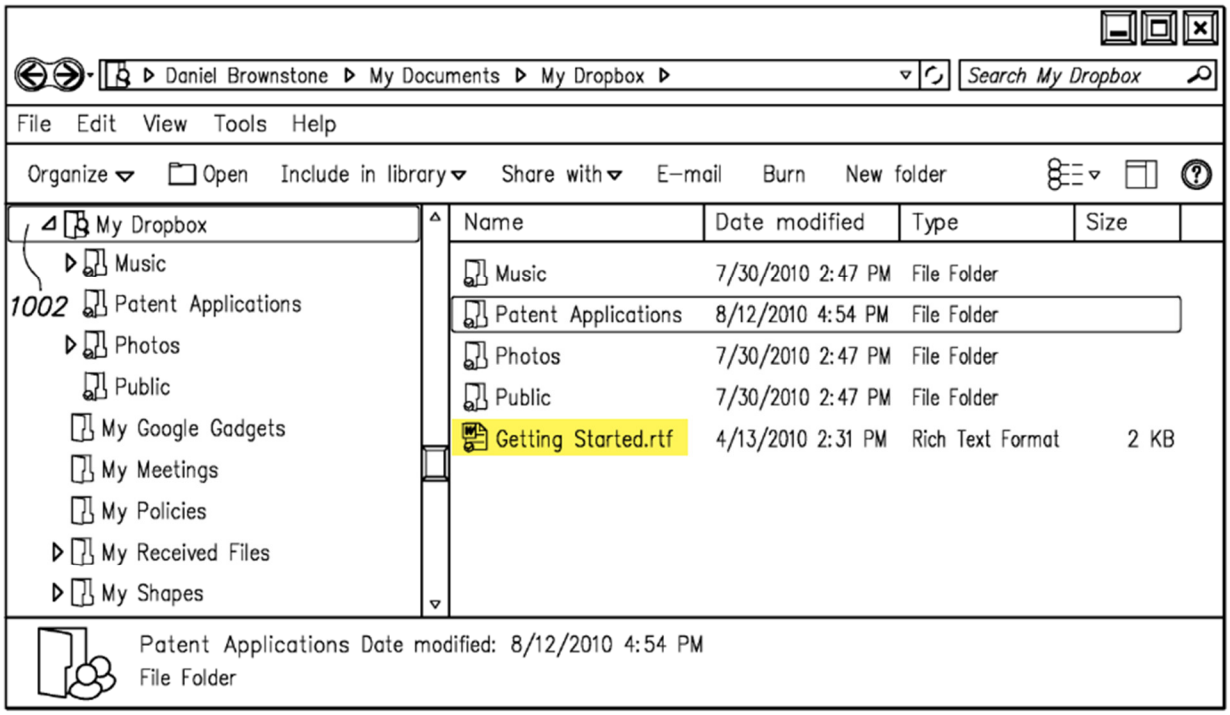


FIG. 10

(*Id.*, FIG. 10 (annotated).)

Houston discloses that when a user accepts an invitation to share a folder, metadata server 102 of host system 110 creates a mapping between the namespace of the host system where the folder is located and the namespace of the user's client in order to allow the invited user to access the shared folder ("when the creation of the representation of the at least one folder is caused"). (*Id.,* 7:49-53; EX1002 ¶¶167-168.) When this occurs, "[t]he invited user's client then obtains the latest version of the synchronized file according to the methods described above" ("an additional

representation on the file explorer interface is caused to be created that represents the at least one file"). (EX1005, 7:56-58; EX1002 ¶¶167-168.)

Additionally, Houston discloses that client 108b enables a user to create files and folders ("an additional representation on the file explorer interface is caused to be created") on its local file system in a conventional manner via its operating system. (EX1005, 3:11-34, 8:64-9:4; EX1002 ¶169.) Houston further discloses that many of its functions can be performed using "software on client 108." (EX1005, 8:64-9:4.) However, Houston does not explicitly disclose that a representation of a file within a shared folder is created on a file explorer interface in response to the creation of a representation of the shared folder.

Nevertheless, it would have been obvious to a POSITA, based on Houston in view of Garcia, to create a representation of a file in response to the creation of a representation of a shared folder. (EX1002 ¶170.) For example, as discussed above in Section IX.A.1, Garcia discloses accessing a file contained within a shared folder. (EX1006, 2:19-22, 2:37-41, 2:66-3:3, 4:53-62, 5:4-13, 5:27-43 ("A user is enabled to access and edit any item within any folder displayed in the virtual drive, including folders that do not reside on the local client (step 2020)."), 6:5-27, 10:52-55, 10:59-65, FIGs. 10, 20a.) And, as further discussed in Section IX.A.1, it would have been obvious to modify Houston such that a representation of a file within a shared folder is also displayed, similar to as taught by Garcia. (EX1002 ¶¶46, 50-52, 171.) A

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POSITA would have recognized the benefits (*e.g.*, greater control and file management) and had a reasonable expectation of success combining these teachings of Houston and Garcia. (EX1002 ¶¶53-57, 171; Section IX.A.1.)

8. Claim 14

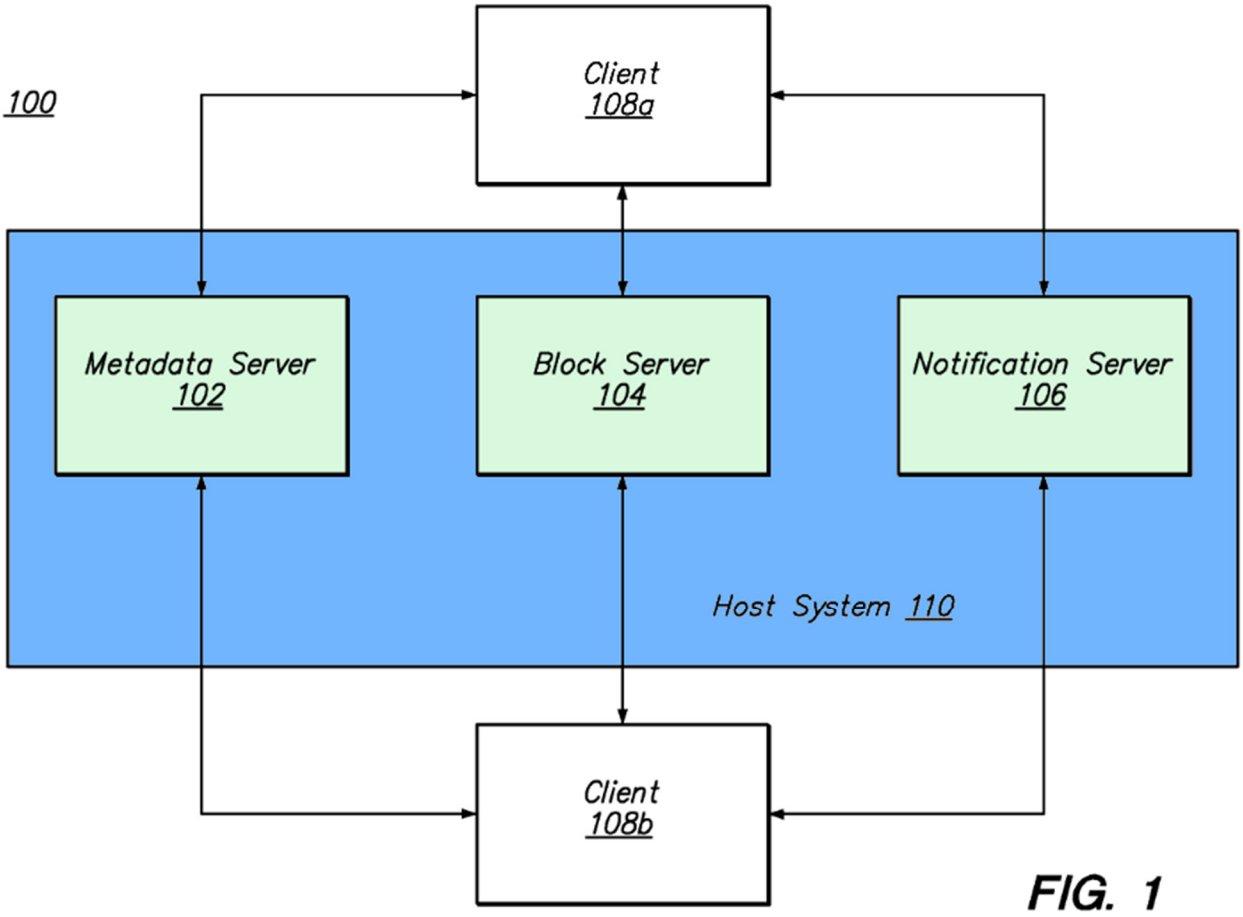
a) The apparatus of claim 13, wherein the apparatus is configured such that the at least one folder and the at least one file are stored and synchronized utilizing at least one server, and

Houston discloses this feature. (EX1002 ¶¶172-173.) As explained below, Houston discloses storing a shared folder and its contents on a system comprising multiple synchronization servers.

As shown in Figure 1, Houston discloses host system 110, which includes "a metadata server 102; a block server 104; and a notification server 106." (EX1005, 2:59-62.) The servers comprising host system 110 "maintain[] synchronized shared folders" accessed by multiple clients and facilitate communication of information associated with folders among the multiple clients. (*Id*., 2:57-58, 2:63-3:46.) For example, a user may instantiate a folder, which is then synchronized to host system 110, and shared among other clients, after which it is kept synchronized across the clients by host system 110. (*Id*., 1:53-2:2, 3:5-11, 3:64-4:2 ("Upon determining that a change has occurred to the synchronized folder, file events engine 514 informs 604 synchronization engine 504 that a change has been detected, and the location (path)

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of the folder or file within the folder where the change has occurred."), 4:60-64, 7:31-58; EX1002 ¶173.)



(EX1005, FIG. 1 (annotated).)

b) wherein the apparatus is further configured such that the at least one email message is caused to be sent without including the at least one file as an attachment of the at least one email message, and

Claim element 14.b recites features substantially the same as those recited in claim element 2.c. Thus, the combination of Houston and Garcia discloses this feature for at least the same reasons. (EX1002 ¶174; Section IX.A.3.c.)

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c) the second node is not caused to store the at least one file when the creation of the representation of the at least one folder is caused, both for avoiding the at least one file from having to be communicated to and stored at the second node until the at least one file is requested by a user at the second node using the additional representation.

Claim element 14.c recites features substantially the same as those recited in claim element 2.d. Thus, the combination of Houston and Garcia discloses this feature for at least the same reasons. (EX1002 ¶175; Section IX.A.3.d.)

X. DISCRETIONARY DENIAL IS NOT APPROPRIATE

The '737 patent is not at issue in any other Board proceeding and the *General Plastic* factors concerning discretionary denial are not applicable. *See General Plastic Industrial Co., Ltd. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper No. 19 at 3, 8, 15-19 (Sept. 6, 2017). Nor should this Petition be denied under 35 U.S.C. § 325(d). Garcia was not considered during prosecution of the '737 patent. (EX1001, Cover ("References Cited"); EX1004.) Houston is cited on the face of the '737 patent, but it was not applied in a rejection, much less considered in combination with Garcia. (*Id.*)

The six-factor test addressed in *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 3 (Mar. 20, 2020) favors institution, particularly in light of the recent guidance provided by the Under Secretary of Commerce for Intellectual Property

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and Director of the United States Patent and Trademark Office, Katherine Vidal, issued on June 21, 2022 ("Guidance"). (EX1010.)

The Guidance provides that the PTAB will not deny institution of an IPR under *Fintiv* when a petition presents compelling evidence of unpatentability. (*Id.*, 9.) "Compelling, meritorious challenges are those in which the evidence, if unrebutted in trial, would plainly lead to a conclusion that one or more claims are unpatentable by a preponderance of the evidence." (*Id.*, 4.) This petition presents compelling evidence of unpatentability because, as discussed above, the prior art discloses all elements of the challenged claims.

Notwithstanding the compelling evidence of unpatentability, as a whole, the *Fintiv* factors also favor institution.

The **first factor (stay)** is neutral or favors institution, as Google currently intends to file a motion to stay after institution. *See, e.g.*, *Hulu LLC v. SITO Mobile R&D IP, LLC*, IPR2021-00298, Paper 11 at 10-11 (PTAB May 19, 2021); *Google LLC v. Parus Holdings, Inc.*, IPR2020-00847, Paper 9 at 12 (PTAB Oct. 21, 2020).

The **second factor (proximity of trial dates)** is neutral. Trial in the parallel district court case will not begin until September 7, 2023, and the *Markman* hearing will be held no earlier than August 25, 2022. (EX1011.) While the FWD in this IPR is expected in January 2024, less than five months after the scheduled trial date, the Guidance recognizes that "scheduled trial dates are unreliable and often change,"

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and thus "[a] court's scheduled trial date . . . is not by itself a good indicator of whether the district court trial will occur before the statutory deadline for a final written decision."[9] (EX1010, 8.)

Here, trial may be delayed due to, for example, a pending motion to transfer (EX1012), given Judge Albright's standing orders require that a *Markman* hearing will not take place until there is a ruling on any pending motion to transfer. (EX1013, 6.) To date, the *Markman* hearing, originally scheduled for March 31, 2022 (EX1014), has already been delayed three times. (EX1011; EX1015; EX1016.) Trial may also be delayed because of the staggering number of open cases (1,188) on Judge Albright's docket. (EX1017.) Indeed, Judge Albright's Court has become a congested center for patent litigation. (EX1018, 5-7 (showing the Western District of Texas as the most congested court in the country and that Judge Albright presided over 19% of all patent cases in Q1 2022).)

Even if the trial is not delayed, this factor does not weigh against institution, as PTAB cases analyzing similar schedules have weighted this factor as neutral or,

[9] According to the statistics cited in the Guidance (EX1010, 9 n.12), the median time to trial in the Western District of Texas for the year ending March 31, 2022, is 27.2 months. (EX1019, 37.) The earliest the parallel district court case could go to trial is September 2023, which is already beyond the median time to trial.

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at most, slightly in favor of denial. *See, e.g.*, *Google LLC et al. v. Parus Holdings, Inc.*, IPR2020-00847, Paper 9 at 12 (PTAB Oct. 21, 2020) (trial scheduled for three months before FWD weighs "at best, neutral"); *Apple Inc. v. Koss Corp.*, IPR2021-00305, Paper 14 at 13-14 (PTAB, June 3, 2021) (trial scheduled for two months before FWD weighs "at most, minimally in favor" of denial).

The **third factor (investment in parallel proceedings)** also favors institution. The parties and the district court have not heavily invested in the district court litigation. *Apple Inc. v. Koss Corp.*, IPR2021-00305, Paper 14 at 14-16 (PTAB June 3, 2021). Fact discovery is in its early stages and the *Markman* hearing has not yet occurred. (EX1011.)

The **fourth factor (overlap)** weighs against discretionary denial. Given the early stage of the Google litigation, it is unclear how much overlap, if any, there will be between the two proceedings. For example, this Petition may challenge claims that are not at issue in the litigation, because Judge Albright's standing orders require multiple meet and confers to discuss "significantly narrowing the number of claims asserted and prior art references at issue." (EX1013, 13-14.)

For the **fifth factor (parties)**, Petitioner is the defendant in the related litigation. But under the "holistic view of whether the efficiency and integrity of the system are best served," the factors here indicate that institution is proper. *Samsung Elecs. Co. Ltd. v. Dynamics Inc.*, IPR2020-00505, Paper 11 at 15 (Aug. 12, 2020).

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The **sixth factor (other circumstances)** weighs in favor of institution given the substantial similarity between the prior art not considered during prosecution and the '737 patent. Institution is therefore consistent with the significant public interest against "leaving bad patents enforceable." *Thryv, Inc. v. Click-To-Call Techs., LP*, 140 S. Ct. 1367, 1374 (2020).

Accordingly, instituting here would enhance the integrity of the patent system, and could save district courts, future parties, and the Board—if a future defendant files an IPR because this one was not considered—significant resources.

XI. CONCLUSION

For the reasons given above, Petitioner requests institution of IPR for the challenged claims based on the specified ground.

Respectfully submitted,

Dated: July 26, 2022

By: /Naveen Modi/
Naveen Modi (Reg. No. 46,224)
Counsel for Petitioner

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that the foregoing Petition for *Inter Partes* Review of U.S. Patent No. 10,613,737 contains, as measured by the word-processing system used to prepare this paper, 13,824 words. This word count does not include the items excluded by 37 C.F.R. § 42.24 as not counting towards the word limit.

Respectfully submitted,

Dated: July 26, 2022

By: /Naveen Modi/
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Counsel for Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2022, I caused a true and correct copy of the foregoing Petition for *Inter Partes* Review of U.S. Patent No. 10,613,737 and supporting exhibits to be served via express mail on the Patent Owner at the following correspondence address of record as listed on PAIR:

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A courtesy copy was also served electronically upon Patent Owner's litigation counsel listed below:

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