

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FREEWHEEL MEDIA, INC.,  
Petitioner,

v.

ALMONDNET, INC.,  
Patent Owner.

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Patent No. 8,775,249

Filing Date: July 23, 2013

Issue Date: July 8, 2014

Title: METHOD, COMPUTER SYSTEM, AND STORED PROGRAM FOR  
ACCUMULATING DESCRIPTIVE PROFILE DATA ALONG WITH SOURCE  
INFORMATION FOR USE IN TARGETING THIRD-PARTY  
ADVERTISEMENTS

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*Inter Partes* Review No.: IPR2024-00418

**PETITION FOR *INTER PARTES* REVIEW  
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *et seq.***

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## EXHIBITS

- Ex. 1201: U.S. Patent No. 8,775,249 (“the ’249 patent”)
- Ex. 1202: Expert Declaration of Dr. Sanjay Ranka
- Ex. 1203: Certified Prosecution History for U.S. Patent No. 7,428,493 (“the ’493 patent”)
- Ex. 1204: Certified Prosecution History for U.S. Patent No. 7,979,307 (“the ’307 patent”)
- Ex. 1205: Certified Prosecution History for U.S. Patent No. 8,244,582 (“the ’582 patent”)
- Ex. 1206: Certified Prosecution History of U.S. Patent No. 8,494,904 (“the ’904 patent”)
- Ex. 1207: Certified Prosecution History of U.S. Patent No. 8,775,249 (“the ’249 patent”)
- Ex. 1208: Papers from the prosecution histories of related EP 00981582.0 and EP 08123068.6 available at <https://register.epo.org/regviewer>
- Ex. 1209: Excerpts from *AlmondNet, Inc v. Freewheel Media, Inc.*, No. 1:23-cv-00220-MN (D. Del.) (“Corresponding District Court Litigation”)
- Ex. 1210: Excerpts from *AlmondNet, Inc. et al v. Oath Holdings Inc.*, 1-19-cv-00247 (D. Del.) (“*Oath Holdings* case”)
- Ex. 1211: Excerpts from *AlmondNet, Inc., v. Samsung Electronics Co., Ltd.*, et al., 4-22-cv-07515 (N.D. Cal.) (“7515 N.D. Cal. case”), *AlmondNet, Inc. et al v. Microsoft Corporation*, 6-21-cv-00897 (W.D. Tex.) (“897 W.D. Tex. case”), and *AlmondNet, Inc. et al v. Amazon.com, Inc. et al.*, 6-21-cv-00898 (W.D. Tex.) (“898 W.D. Tex. case”)
- Ex. 1212: Excerpts from *Roku, Inc. v. AlmondNet, Inc. et al.*, 1-21-cv-01035 (D. Del.) (“1035 D. Del. case”)

- Ex. 1213: Excerpts from *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00049, challenging claims of the '307 patent
- Ex. 1214: Excerpts from *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00050, challenging claims of the '249 patent
- Ex. 1215: Excerpts from *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00051, challenging claims of the '904 patent
- Ex. 1216: Excerpts from *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00052, challenging claims of the '582 patent
- Ex. 1217: Excerpts from *Samsung Electronics Co., Ltd. v. AlmondNet, Inc.*, IPR2022-01260, challenging claims of the '582 patent
- Ex. 1218: Excerpts from *Amazon.com, Inc. v. AlmondNet, Inc.*, IPR2022-01455, challenging claims of the '582 patent
- Ex. 1219: Excerpts from *Meta Platforms, Inc. v. AlmondNet, Inc.*, IPR2022-01436, challenging claims of the '582 patent
- Ex. 1220: “Brief History of the Internet,” by Barry Leiner et al., Internet Society, 1997
- Ex. 1221: “Addressing URL,” Internet Engineering Task Force (IETF), URI working Group, [w3.org/Addressing/URL/url-spec.txt](http://w3.org/Addressing/URL/url-spec.txt), 1994
- Ex. 1222: “HTML Sourcebook,” Ian S. Graham, John Wiley & Sons, Inc., 1995, excerpts
- Ex. 1223: “Hypertext Transfer Protocol -- HTTP/1.0,” Internet Engineering Task Force (IETF), HTTP Working Group, 1996
- Ex. 1224: “Newton’s Telecom Dictionary,” 11<sup>th</sup> edition, by Harry Newton, Flatiron Publishing, Inc., 1996, excerpts
- Ex. 1225: “Hypertext Markup Language – 2.0,” RFC 1866, Internet Engineering Task Force (IETF), Network Working Group, 1995

- Ex. 1226: “Hypertext Transfer Protocol -- HTTP/1.0,” RFC 1945, Internet Engineering Task Force (IETF), Network Working Group, 1996
- Ex. 1227: “The HTTP Protocol As Implemented in W3,”  
<https://www.w3.org/Protocol/HTTP/AsImplemented.html>
- Ex. 1228: U.S. Patent No. 6,183,366 (“Goldberg”)
- Ex. 1229: U.S. Patent No. 7,334,184 (“Simons”)
- Ex. 1230: U.S. Patent No. 6,055,573 (“Gardenswartz”)
- Ex. 1231: U.S. Patent No. 5,991,740 (“Messer”)
- Ex. 1232: U.S. Patent No. 6,036,601 (“Heckel”)
- Ex. 1233: “The Internet Complete Reference,” by Harley Hahn and Rick Stout, Osborne McGraw-Hill, 1994, excerpts
- Ex. 1234: “Net Worth,” by John Hagel III and Marc Singer, Harvard Business School Press, 1999 (“Hagel”)
- Ex. 1235: U.S. Patent No. 5,948,061 (“Merriman”)
- Exs. 1236-1239: *Reserved*
- Ex. 1240: U.S. Patent Application Pub. No. 2013/0097664 (“Herz”)
- Ex. 1241: U.S. Provisional Pat. App. No. 60/161,640 (“Herz provisional”)
- Ex. 1242: Herz Claim 1 Listing
- Exs. 1243-1245: *Reserved*
- Ex. 1246: “Database Management Systems,” Second Edition, by Raghu Ramakrishnan and Johannes Gehrke, McGraw-Hill Companies, Inc., 1998 (excerpts)
- Ex. 1247: “How the Internet Works,” Fourth Edition, by Preston Gralla, Que Corporation, 1998

- Ex. 1248: “A Framework for Targeting Banner Advertising On the Internet,” by Katherine Gallagher and Jeffrey Parsons, IEEE, 1997
- Ex. 1249: “A Framework for the Optimizing of WWW Advertising,” by Charu C. Aggarwal, Joel L. Wolf, and Philip S. Yu, IBM T.J. Watson Research Center
- Ex. 1250: “Unintrusive customization techniques for Web advertising,” by Marc Langheinrich et al., Elsevier Science, Computer Networks 31 (1999), pp. 1259-1272
- Ex. 1251: “Web advertising,” by Michael McCandless, IEEE, Intelligent Systems, 1998
- Ex. 1252: Expert Declaration of Dr. Hall-Ellis
- Exs. 1253-1264: *Reserved*
- Ex. 1265: U.S. Patent No. 6,029,141 (“Bezos”)

## MANDATORY NOTICES

### **Real Parties in Interest (37 C.F.R. § 42.8(b)(1))**

The real parties-in-interest for this petition are (i) FreeWheel Media, Inc., (ii) Beeswax.io Corp., (iii) Comcast Corporation, (iv) Comcast Cable Communications, LLC, and (v) Comcast Cable Communications Management, LLC.

No unnamed entity is funding, controlling, or directing this Petition for *inter partes* review (IPR) of U.S. Patent No. 8,775,249 (“the ’249 patent”), or otherwise has an opportunity to control or direct this Petition or Petitioner’s participation in any resulting IPR.

### **Related Matters (37 C.F.R. § 42.8(b)(2))**

The ’249 patent was asserted against FreeWheel Media, Inc. and Beeswax.io Corp. by AlmondNet, Inc. and Intent IQ, LLC (collectively “AlmondNet”) in the United States District Court for the District of Delaware: *AlmondNet, Inc v. Freewheel Media, Inc.*, No. 1:23-cv-00220-MN (D. Del.) (“Corresponding District Court Litigation”). Ex. 1209. The earliest date of service of the complaint for the Corresponding District Court Litigation on any of the real parties-in-interest was March 2, 2023.

This is the third of three petitions for *inter partes* review filed by Petitioner against the ’249 patent—the other two petitions are assigned IPR2024-00416 and IPR2024-00417. Petitioner is also filing three petitions for *inter partes* review

against related U.S. Pat. No. 7,979,307—those three petitions are assigned IPR2024-00413, IPR2024-00414, and IPR2024-00415.

According to the Office’s records, the ’249 patent is a continuation of application Ser. No. 13/585,779, filed Aug. 14, 2012, now U.S. Pat. No. 8,494,904 (“the ’904 patent”), which is a continuation of application Ser. No. 13/115,949, filed May 25, 2011, now U.S. Pat. No. 8,244,582 (“the ’582 patent”), which is a continuation of application Ser. No. 12/186,918, filed Aug. 6, 2008, now U.S. Pat. No. 7,979,307 (“the ’307 patent”), which is a divisional of application Ser. No. 11/099,861, filed Apr. 6, 2005, now U.S. Pat. No. 7,428,493 (“the ’493 patent”), which is a continuation of application Ser. No. 09/593,993, filed Jun. 14, 2000, now U.S. Pat. No. 6,925,440 (“the ’440 patent”), which claims priority to Israel Application No. 133,489, filed Dec. 13, 1999.

In addition to the Corresponding District Court Litigation, the ’249 patent or its related patents have been the subject of the following district court cases:

- *AlmondNet, Inc. et al v. LinkedIn Corporation*, 1:23-cv-01373 (D. Del.), which is currently pending.
- *AlmondNet, Inc. v. Viant Technology Inc.*, 1-23-cv-00174 (D. Del.), which is currently pending.
- *AlmondNet, Inc., v. Samsung Electronics Co., Ltd.*, 4-22-cv-07515 (N.D. Cal.) (“7515 N.D. Cal. case”), which is currently pending but stayed.

- *AlmondNet, Inc. v. Meta Platforms, Inc.*, 4-23-cv-00438 (N.D. Cal.), which was reassigned to the 7515 N.D. Cal. case.
- *Roku, Inc. v. AlmondNet, Inc.*, 1-21-cv-01035 (D. Del.) (“1035 D. Del. case”), which is currently pending.
- *AlmondNet, Inc. v. Roku, Inc.*, 1-22-cv-01540 (D. Del.) (“1540 D. Del. case”), which was consolidated with the 1035 D. Del. case.
- *AlmondNet, Inc. v. Amazon.com, Inc.*, 6-22-cv-01204 (W.D. Tex.), which was terminated.
- *AlmondNet, Inc. v. Meta Platforms, Inc. f/k/a Facebook, Inc.*, 6-22-cv-01205 (W.D. Tex.), which was transferred to the 8911 N.D. Cal. case.
- *AlmondNet, Inc. v. Microsoft Corp.*, 6-22-cv-01206 (W.D. Tex.), which was consolidated into the 897 W.D. Tex. Case.
- *AlmondNet, Inc. v. Meta Platforms, Inc. f/k/a Facebook, Inc.*, 4-22-cv-08911 (N.D. Cal.) (“8911 N.D. Cal. case”), which was reassigned to the 7515 N.D. Cal. case.
- *AlmondNet, Inc. v. Roku, Inc.*, 6-21-cv-00731 (W.D. Tex.), which is currently pending but stayed.
- *AlmondNet, Inc. v. Facebook, Inc.*, 6-21-cv-00896 (W.D. Tex.), which was transferred to the 8911 N.D. Cal. case.

- *AlmondNet, Inc. v. Microsoft Corp.*, 6-21-cv-00897 (W.D. Tex.) (“897 W.D. Tex. case”), which is currently pending.
- *AlmondNet, Inc. v. Amazon.com, Inc.*, 6-21-cv-00898 (W.D. Tex.) (“898 W.D. Tex. case”), which is currently pending.
- *AlmondNet, Inc. v. Samsung Electronics Co., Ltd.*, 6-21-cv-00891 (W.D. Tex.), which was transferred to the 7515 N.D. Cal. case.
- *AlmondNet, Inc. v. Roku, Inc.*, 6-21-cv-00876 (W.D. Tex.), which was transferred to the 1540 D. Del. case which was then consolidated with the 1035 D. Del. case.
- *AlmondNet, Inc. v. Oath Holdings Inc.*, 1-19-cv-00247 (D. Del.) (“*Oath Holdings* case”), which was terminated.
- *AlmondNet, Inc. v. Yahoo! Inc.*, 1-16-cv-01557 (E. D. N.Y.), which was transferred to the *Oath Holdings* case.

The '249 patent or its related patents have also been the subject of the following U.S. Patent Office proceedings:

- *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00049, challenging claims of the '249 patent, was denied institution because “Petitioner has not met its burden of showing that the '249 patent is eligible for the transitional covered business method patent review program.” Ex. 1213, 146.

- *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00050, challenging claims of the '249 patent, was denied institution because “Petitioner has not met its burden of showing that the '249 patent is eligible for the transitional covered business method patent review program.” Ex. 1214, 153.
- *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00051, challenging claims of the '904 patent was denied institution because “Petitioner has not met its burden of showing that the '904 patent is eligible for the transitional covered business method patent review program.” Ex. 1215, 153.
- *Yahoo! Inc. v. AlmondNet, Inc.*, CBM2017-00052, challenging claims of the '582 patent, was denied institution because “Petitioner has not met its burden of showing that the '582 patent is eligible for the transitional covered business method patent review program.” Ex. 1216, 147.
- *Samsung Electronics Co., Ltd. v. AlmondNet, Inc.*, IPR2022-01260, challenging claims of the '582 patent on different grounds from those presented herein, was denied institution. Ex. 1217.
- *Amazon.com, Inc. v. AlmondNet, Inc.*, IPR2022-01455, challenging claims of the '582 patent on different grounds from those presented herein, was denied institution. Ex. 1218.
- *Meta Platforms, Inc. v. AlmondNet, Inc.*, IPR2022-01436, challenging claims of the '582 patent on grounds included in the grounds presented in

the second petitions by Petitioner against the '249 patent and '307 patents,  
was instituted. Ex. 1219.

**Lead and Back-Up Counsel (37 C.F.R. § 42.8(b)(3))**

Petitioner designates counsel listed below. A power of attorney for counsel  
is being concurrently filed.

| <b><u>Lead Counsel</u></b>                                                                                                       | <b><u>Back-Up Counsel</u></b>                                                                                                    |
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Please address all correspondence to counsel at this address shown above.

Petitioner consents to electronic service by email at the following address and the above emails: ComcastIPRService@bannerwitcoff.com.

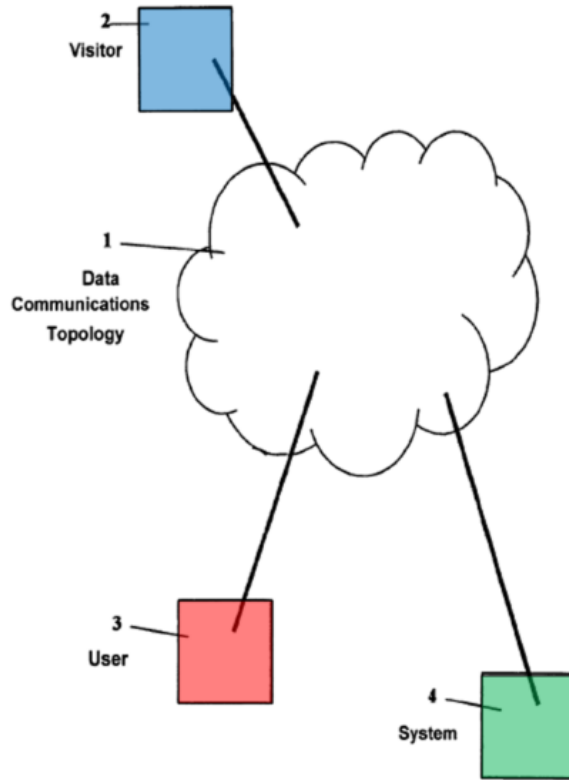
## I. INTRODUCTION

FreeWheel Media, Inc. (“Petitioner”) petitions for *inter partes* review and cancellation of claims 1, 3-11, 13-21, and 23-25 of U.S. Patent No. 8,775,249 (“the ’249 patent”) (Ex. 1201). Claims 2, 12, and 22 have been disclaimed. Ex. 1201, 16. The ’249 patent relates to a “mercantile method” that collects profiles of website visitors. Ex. 1201, 1:31-35, 16:46-47. As the prior art demonstrates, the claims recite well-known technology for carrying out this obvious business method. Accordingly, all challenged claims are unpatentable as obvious under the multiple grounds herein.

## II. ’249 PATENT OVERVIEW

### A. Summary

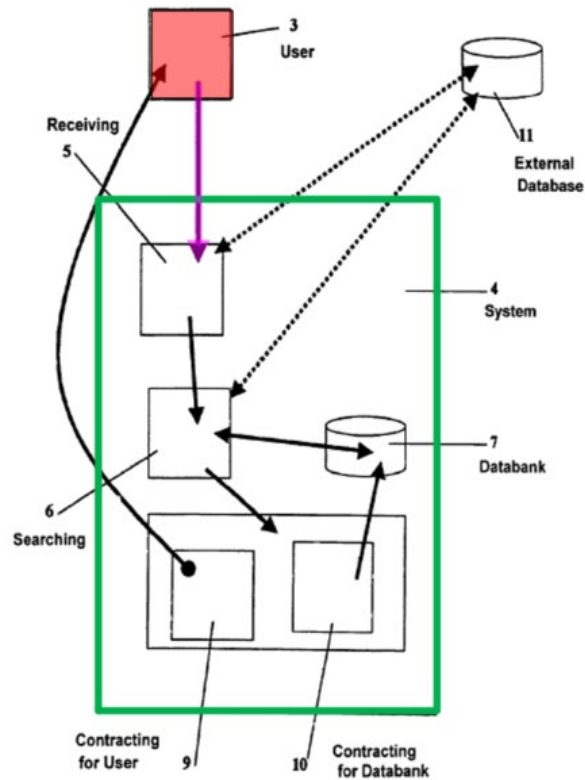
The ’249 patent describes **visitor 2** accessing **user 3’s** website, which then provides a partial profile (including at least one attribute about visitor 2) to **system 4** to add it to a profile used for targeted advertising:



Ex. 1201, Fig. 1 (annotated)

Ex. 1202, ¶¶23-32; Ex. 1201, 4:66-5:26, 8:29-54.

Representative independent claim 1 recites “(a) electronically receiving at a programmed computer system coupled to a global computer network, from at least one server controlled by one of a plurality of unaffiliated third parties, a partial profile of an entity ....” This refers to **system 4** receiving (**magenta arrow**) a partial profile of a website visitor **from** a website server (**user 3**):



Ex. 1201, Fig. 2 (annotated)

Claim 1 further defines this receiving: “(c) wherein receiving the partial profile is achieved as a result of automatic electronic URL redirection from a portion of a page of the website accessed by the user computer.”<sup>1</sup> This claimed redirection is not reflected in Figure 2 (or any drawings), nor described in the specification.

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<sup>1</sup> The claims depart from the specification’s language, reciting: “entity” and “user computer” for the visitor 2 and visitor’s computer; “server controlled by one of a plurality of unaffiliated third parties” for user 3’s server (*e.g.*, website server); and

Only two parts of the '249 specification refer to a redirect. Ex. 1201, 4:1-7, 11:64-12:6; Ex. 1202, ¶¶213-216. But, both parts merely describe user 3 sending partial profile information to system 4 and *separately* redirecting visitor 2's browser to send a cookie (that it got from system 4—not user 3) to system 4. Neither part describes receiving, at system 4 *from* user 3, a partial profile, wherein *receiving the partial profile is achieved as a result of automatic electronic URL redirection* from a portion of a page of the website accessed by visitor 2, as recited in claim 1. In any event, this IPR should be instituted because the prior art teaches what is claimed. Ex. 1202, ¶¶213-218.

## **B. Priority**

For purposes of this proceeding, the priority date is assumed to be the earliest claimed priority date: December 13, 1999.

## **C. Prosecution History**

The '249 patent is a continuation of the '307 patent, which issued after Applicant added “automatic electronic URL” before “redirection” to each independent claim and argued that the Acxiom reference did not teach URL redirection. Ex. 1204, pp. 276-279; Ex. 1202, ¶¶33-82.

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“computer system” for system 4, which is sometimes referred to as the databank's server or simply server.

The '249 patent faced only §101 and double patenting rejections, which were overcome by minor amendments and a terminal disclaimer. Ex. 1207, pp. 116-127, 147-148; Ex. 1202, ¶¶65-73.

### **III. STATE OF THE ART**

#### **A. Technical Background**

All technical aspects of the claims were well-known, including Uniform Resource Locator (URL) redirection, cookies, database management (including profiles), and targeted Internet advertising. Ex. 1202, ¶¶123-143.

#### **B. Prior Art Overviews**

##### **1. U.S. Patent App. Pub. No. 2013/0097664 (“Herz”) (Ex. 1240)**

Herz, filed December 3, 2012, and published April 18, 2013, claims priority to U.S. Provisional Application No. 60/161,640 (Ex. 1241), filed October 27, 1999. Herz is entitled to this priority date as explained below (*see* § III.B.1.b) and is prior art under 35 U.S.C. § 102(e). Ex. 1202, ¶¶144-151. In the below analysis (*see* § VIII), citations are to the Herz Provisional because Herz incorporates the Herz Provisional by reference. Ex. 1240, ¶[0001].

##### **a. Overview**

Herz teaches a security data interchange (SDI) system for collecting profile data of Internet users as they interact with various vendor websites that enables vendors to negotiate for the exchange of profile data and to use the profile data to provide targeted advertisements to the users. Ex. 1241, pp. 1-13, 30, 61, 88, 112;

Ex. 1240, Abstract, ¶¶[0003]-[0019], [0025]-[0026], [0045], [0055], Fig. 1; Ex. 1202, ¶¶145-151.

Herz's user computers are "general purpose computers with memory and a connection to a network of other computers (clients and servers), for example via the Internet." Ex. 1241, p. 8. Similarly, the vendors interact with Herz's system via servers, which are "general purpose computers with memory and a connection to a network of other computers." *Id.* Herz's vendors include "web hosts or e-commerce service providers" that host websites a user might visit to conduct transactions with a vendor (*e.g.*, book sellers, music vendors, etc.). Ex. 1241, p. 69, *see also* pp. 12-13, 31-32, 39, 62, 65, 87, 112, 115, 118, 135. The vendors gather user data as the user interacts with a vendor website and provide it to an SDI server. Ex. 1241, pp. 11-13, 35, 38, 44. For example, a user computer might visit a book seller, and the user computer and/or the book seller (vendor) might provide profile information related to the purchase of books to the central SDI server. *Id.*, pp. 13-14; Ex. 1202, ¶146.

The user profiles stored by the SDI server include information gathered based on the user's interaction with vendor websites, "including transactional information . . . such as the product purchased, and demographic information (*e.g.*, gender, zip code, occupation)", and implicit data such as "click stream data that logs the information that a user requests and views, and the time-sequence of hyper-links

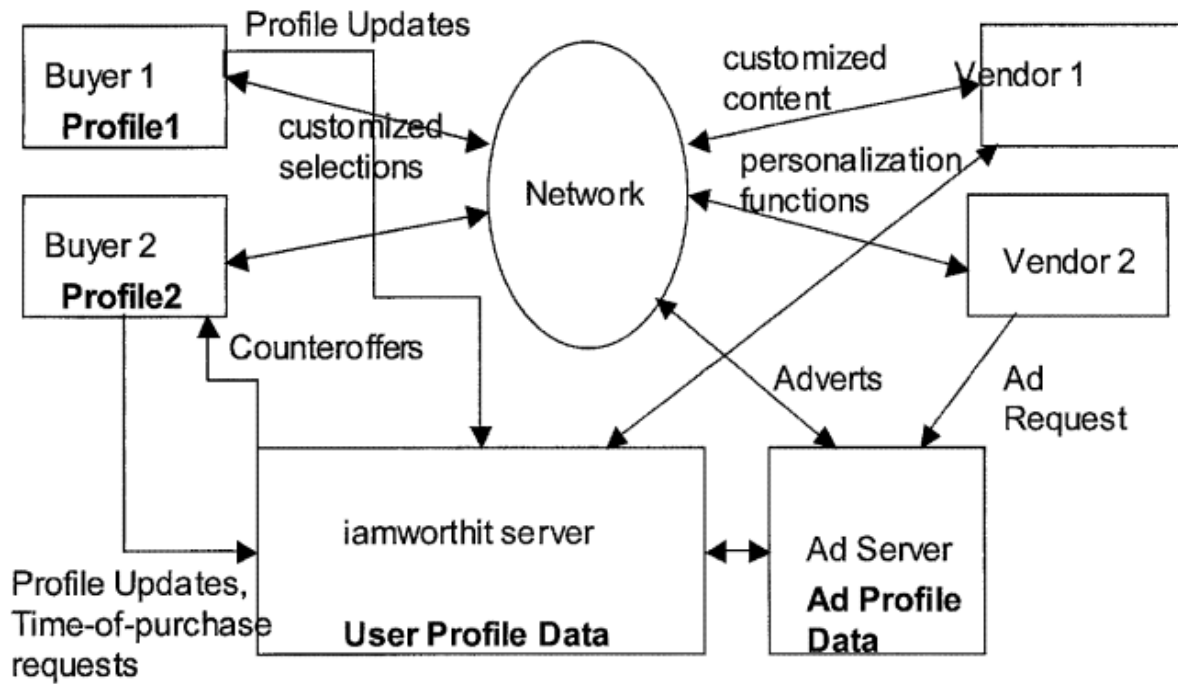
that a user follows as he/she browses across multiple web sites.” Ex. 1241, p. 61, *see also*, pp. 8, 11-13, 35, 38, 44; Ex. 1202, ¶¶145-147.

Herz also describes that vendors use the profile information stored on the SDI system to perform various functions or services. *Id.*, pp. 9, 35-36, 60, 69, 112-118. For example, based on a user’s profile information, a vendor provides personalized content (*e.g.*, targeted advertisements) to the user. Ex. 1241, pp. 69, 112-118; Ex. 1202, ¶¶146-158.

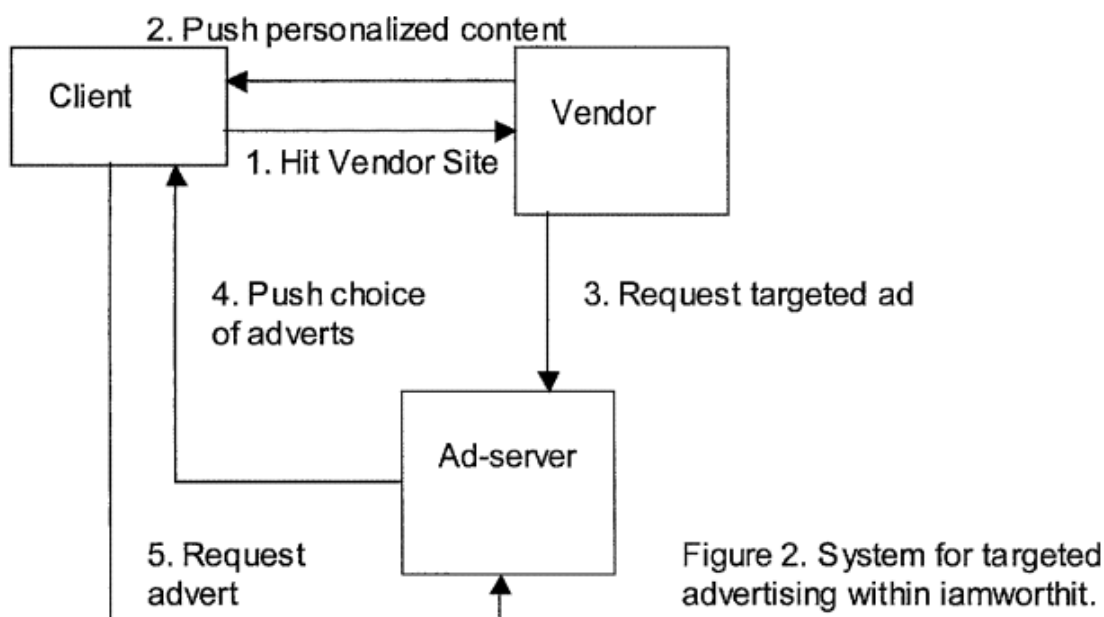
Herz’s SDI system allows a user to determine what level of privacy they wish to apply to different user profile information, such as by electing what number of individual pseudonyms to use. Ex. 1241, pp. 27-28, 40, 112. For example, to achieve a higher level of privacy, a user may select a different pseudonym for each vendor the user interacts with. *Id.* If the user chooses a lower level of privacy, the user may “simply use a unique ID that is linked to his/her true identity to interact with every vendor.” Ex. 1241, p. 28; Ex. 1202, ¶149.

Herz describes an “extension” of the SDI in the form of a model for managing the collection and distribution of information stored by the SDI (the “iamworthit” model is an example of the SDI). Ex. 1241, p. 112. As shown below, the iamworthit model interacts with both vendors and users (*e.g.*, “buyers”) to provide “access to the iamworthit database for datamining purposes, to build personalization and counteroffer models, and tune advertising models. Vendors can also contract to have

iamworthit-enabled advertisements on their web pages, and to push targeted advertisements to users on other pages.” *Id.*, pp. 112-115, Figs. 1-2; Ex. 1202, ¶¶150-151.



Ex. 1241, p. 113, Fig. 1



Ex. 1241, p. 115, Fig. 2

**b. Priority to Herz Provisional Filing Date**

The Herz provisional provides written description support for at least claim 1 of Herz, as shown in the chart below. Ex. 1202, ¶¶152-166; Ex. 1242; *Dynamic Drinkware, LLC v. National Graphics, Inc.*, 800 F.3d 1375, 1381 (Fed. Cir. 2015).

| Herz's Claim 1                                                                           | Herz Provisional                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| HC1[A]: A method of providing access to user profile information, the method comprising: | Ex. 1241, 1-13 (collectively teaching that vendors access user profiles stored in an SDI warehouse to push personalized information to a user), Fig. 1; Ex. 1202, ¶¶153-154. <i>See also</i> HC1[B]-[F]. |

| <b>Herz's Claim 1</b>                                                                                                                                                                                                                                                                                                | <b>Herz Provisional</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>HC1[B]: storing in memory a profile for a user, the profile comprising personal information regarding the user;</p>                                                                                                                                                                                               | <p>Ex. 1241, 2, 5-6, 8, 10-13, 34, 36, 39-40, 42 (collectively explaining that user profiles are stored on an SDI server that is a general purpose computer with memory), Fig. 1; Ex. 1202, ¶¶155-157.</p>                                                                                                                                                                                                                                                                                                             |
| <p>HC1[C]: establishing a policy for access to the user's personal information, the policy comprising an access rule that provides users with different levels of access to the user's personal information for different users, wherein the access rule is controlled by the owner of the personal information;</p> | <p>Ex. 1241, 3-4, 8-10, 24, 27-31, 34-36, 41-42, 68, 78, 112 (collectively teaching that users set privacy and profile management policies to control access to profile information via the use of pseudonyms during transaction with other parties (<i>e.g.</i>, vendors) – such that a vendor may only access profile data associated with a particular pseudonym, and preventing the vendor from accessing profile information of the user associated with a different pseudonym), Fig. 6; Ex. 1202, ¶¶158-160.</p> |

| <b>Herz's Claim 1</b>                                                                                         | <b>Herz Provisional</b>                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| HC1[D]: providing online access to the user's personal information by the users in accordance with the policy | Ex. 1241, 2, 8-10, 68, 112-113 (collectively teaching that vendors interact with user profiles stored in the SDI warehouse via the Internet and that such interaction is based on the user's use of pseudonyms that determines the user's privacy and profile management policies), Fig. 1; Ex. 1202, ¶¶161-162. |
| HC1[E]: establishing a price rule for access to one or more user profiles by one or more agents; and          | Ex. 1241, 7, 10, 34, 41, 68, 112, 138 (collectively teaching that vendors may be granted access to profile information stored in the SDI warehouse for a negotiated price that is based on the accuracy and content of the information); Ex. 1202, ¶¶163-164.                                                    |
| HC1[F]: providing access to information in the one or more user profiles based on the price rule.             | Ex. 1241, 7-10, 27, 34, 41, 68, 112, 125 (collectively teaching that profile information may be provided to a vendor for a negotiated price); Ex. 1202, ¶¶165-166.                                                                                                                                               |

**2. John Hagel III & Marc Singer, Net Worth (1999) (“Hagel”) (Ex. 1234)**

Hagel, a printed publication published in January 1999, is prior art under 35 U.S.C. § 102(a). Ex. 1202, ¶¶167-177; Ex. 1252, ¶¶57-66.

Hagel recognizes that Internet users generate vast amounts of data when interacting with websites and an “infomediary” is positioned to collect the user data and to build expansive profiles of the users that are more useful than any profile a single website on its own would build. Ex. 1234, pp. ix-x, 19-21, 28, 31-32, 42, 45-47, 111 (Table 5-1), 112, 128 (Fig. 5-2), 148 (Fig. 6-1), 158 (Fig. 7-1), 159, 170 (Fig. 7-3). “[C]ompanies playing the infomediary role will become the ... brokers of customer information.” Ex. 1234, p. 19. The infomediary receives user/customer information from both users and vendors. *Id.*, pp. 30-31, 38, 47, 91-92, 129-130, 262, 263 (Fig. A-1), 264-270, 275. Additionally, Hagel teaches that the intermediary establishes a system that enables users to be compensated for sharing user profile data. *Id.*; Ex. 1202, ¶168.

Hagel’s description of the infomediary was inspired by “the potential to build new business models by using the Internet” because “digital networks can make many new business models possible.” Ex. 1234, pp. ix-x. Hagel also notes that “[i]n working with these business models, we soon realized that they all depend on the business’s ability to capture information about customers and to use this information for commercial purposes.” Ex. 1234, p. x. Hagel further states that “[u]ltimately,

information about people may be the most important information collected on the Internet—precisely because it helps connect people in a relevant and timely fashion.” Ex. 1234, p. xii; Ex. 1202, ¶169.

Hagel describes a method and system for aggregating information across various websites to build profiles of customers and delivering targeted advertisements over the Internet. Ex. 1234, pp. 20-21, 28-29, 42, 44-45, 60, 91-92, 93 (Table 4-1), 111 (Table 5-1)-112, 129, 154, 159, 162, 165, 168, 172, 239, 241, 264-268, 275, Figs. 7-1, 7-2, 7-3, A-1. As mentioned above, the central element of Hagel’s envisioned system is the “infomediary,” a trusted third party unaffiliated with users (*e.g.*, consumers) and vendors (*e.g.*, entities selling products or services on the Internet). *Id.*, pp. 9, 17, 21-22, 42-43, 45, 81, 83, 91, 101, 129, 154, 166, 262-265, 267, 269. These infomediaries are entities that gather customer information and market it to interested parties (*e.g.*, advertisers). *Id.* In introducing the “infomediary,” Hagel admits that “[c]apturing information about customers and using it for commercial purposes is hardly a new idea. Entire industries—direct-marketing business and the credit information business, for example—have been built on this activity.” *Id.*, p. 21; Ex. 1202, ¶¶170-171.

Hagel’s infomediary uses “sophisticated information capture” techniques and relationships with third-party websites (*e.g.*, vendors) to build detailed customer profiles (*i.e.*, user profiles) based on a customer’s online interactions. Ex. 1234, p.

91, *see also*, pp. 17, 21-22, 31-32, 42-43, 45, 81, 90, 101. For example, the infomediary may use cookies to track customer activity and behavior across websites on the Internet, and/or receive information about the customer directly from the websites based on a relationship with a third party associated with the website. *Id.*, pp. 90-92, 264-265, 275. The customer profiles will contain “[d]etailed transaction histories, including itemized data on frequency of purchase and amount spent for individual products and services. [] Detailed preference information, including which vendors the client chooses and the attributes of the products or services purchased. [] Detailed media usage profiles, including on-line information (Web sites visited, content accessed at those sites) and magazine and newspaper subscriptions.” Ex. 1234, p. 159, *see also* pp. 111, 156; Ex. 1202, ¶172.

Hagel provides examples of potential infomediaries, including “specialized advertising network businesses” such as DoubleClick, that are well-suited to serve as infomediaries because they possess “a detailed understanding of the tools and skills required to capture information about customers and to package this information for advertisers.” *Id.*, p. 91, *see also*, pp. 92, 264-265, 275, Figure A-1; Ex. 1202, ¶173.

After Hagel’s infomediaries gather information about the customer (*i.e.*, user profile information), the infomediaries store a customer profile in databases on centralized servers for marketing to interested parties. Ex. 1234, pp. 31, 91, 129,

154, 159, 257, 264 (“Customer profiles are nothing more than a database of information with defined fields. To be most effective, this is a relational database (such as Oracle, Informix, Microsoft SQL Server, or IBM DB2)”), 267, 269-270, 276; Ex. 1202, ¶¶174-175.

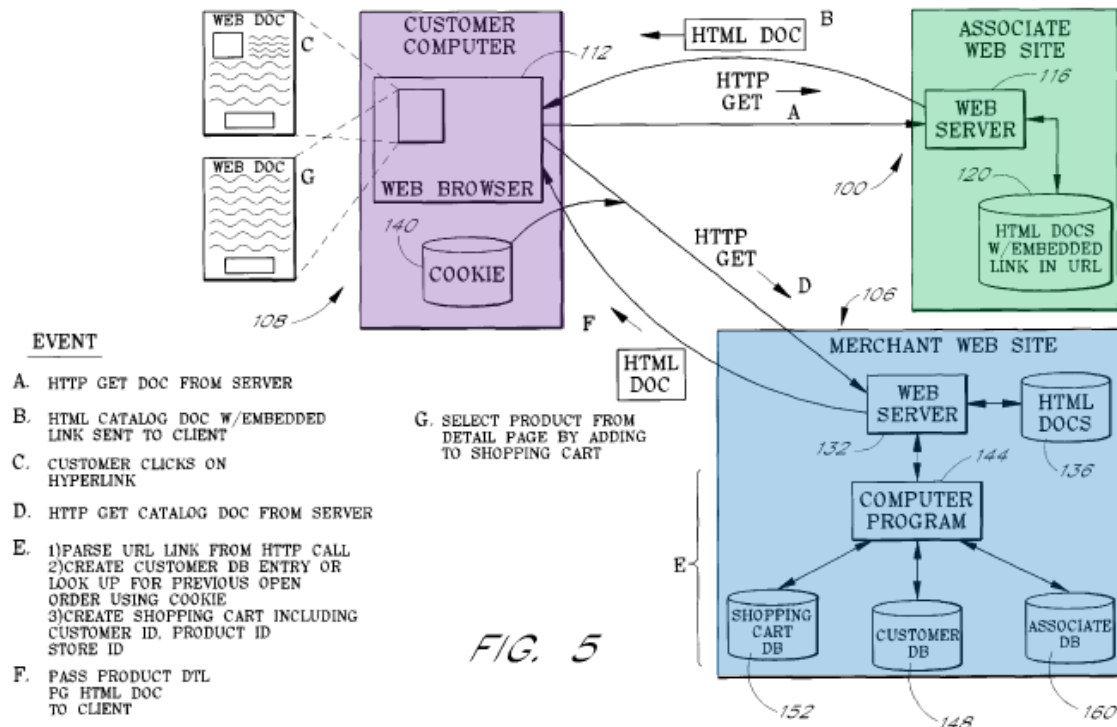
The user profiles facilitate targeted advertisements from third parties (such as advertisers associated with a specialized advertising network business infomediary described above) directed towards users. *Id.*, pp. 28, 33, 35-37, 42-44 (“Working with an infomediary will not only give vendors a stream of qualified leads but also enable them to conduct more targeted searches against specific criteria in order to identify appropriate customers for their marketing messages.”), 45-46, 61-62, 64, 72, 91, 149, 152, 267-268, Fig. A-1, 7-2; Ex. 1202, ¶¶176-177.

As an example of the functions of the infomediary system discussed above, Hagel describes an infomediary working with a third party website “GardenEscape.” Ex. 1234, p. 266. In the GardenEscape example, the infomediary agrees with GardenEscape that, “whenever an infomediary member entered the commerce part of its site, GardenEscape would notify the infomediary of the activity and share log files regarding this particular individual.” Ex. 1234, p. 266, *see also*, pp. 9, 17, 21-22, 42-43, 45, 81, 83, 91, 101, 129, 154, 166, 262-265, 267, 269; Ex. 1202, ¶¶176-177.

**3. U.S. Patent No. 6,029,141 to Bezos *et al.* (“Bezos”) (Ex. 1265)**

Bezos was filed on June 27, 1997, issued on February 22, 2000, and is prior art under 35 U.S.C. § 102(e). Ex. 1202, ¶¶178-181.

Bezos describes an Internet-based referral system that enables various business entities (“associates”) to market products (*e.g.*, a book), sold from a separate merchant website, in exchange for a commission. Ex. 1265, Abstract, 1:50-2:18, 2:48-3:25, Figs. 1, 4-5; Ex. 1202, ¶¶179-181. As described in relation to Figure 5 below, an associate website (**green**) promotes a product available for purchase at the merchant website (**blue**). Ex. 1265, Abstract, 6:1-40, 6:59-7:40, Figs. 1, 4-5. An end user (“customer”) (**purple**) interacts with the associate website to receive information about the product. *Id.*



Ex. 1265, Fig. 5 (annotated)

As part of the product information, the associate website provides a referral link that redirects the customer to the merchant website to purchase the product. *Id.*, Abstract, 6:1-40, 6:59-7:40, 11:1-15, 11:27-12:41, 12:52-13:8, 13:28-14:51, Figs. 1, 4-7. When the customer selects the referral link, the customer is automatically redirected from the associate website to the merchant website. *Id.*, Abstract, 7:6-7:30, Fig. 5. As part of the referral process, the merchant website processes the referral link to obtain information generated by the associate website including a unique identifier of the product and a unique identifier of the associate that provided the referral. Ex. 1265, Abstract, 7:21-30, 11:1-15, 12:52-13:8, Figs. 4-5; Ex. 1202, ¶¶179-181.

If the customer previously visited the merchant website, then the merchant website reads a cookie previously stored on the customer computer to obtain the customer's ID. Ex. 1265, 8:17-31, 13:29-14:11, Figs. 1, 5. By comparing the customer ID to information stored in a customer database maintained by the merchant website, the customer may be associated with a preexisting shopping cart. *Id.* The shopping cart identifies products the customer has selected for purchase along with the identifier of the referring associate for each product. Ex. 1265, 7:61-8:31, 14:21-61. When the user buys a product, the identifier of the referring associate for the product is used to provide a commission to the associate. *Id.*; Ex. 1202, ¶¶179-181.

Figure 4 (below) shows a format of a referral link 400 generated by the associate website and provided to the customer. Ex. 1265, 11:1-15. The referral

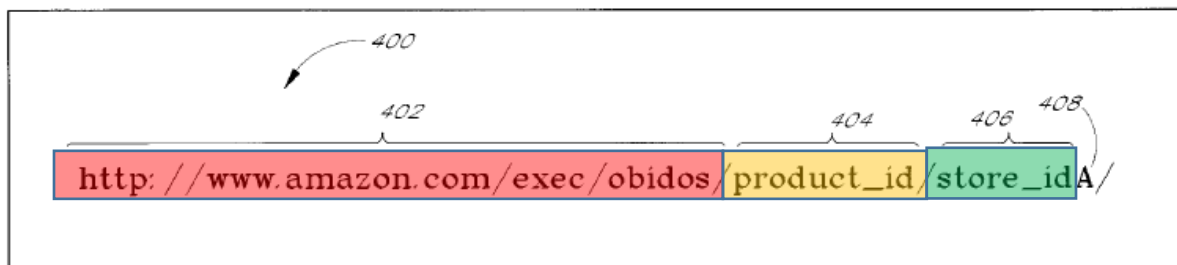


FIG. 4

Ex. 1265, Fig. 4 (annotated)

link 400 includes an address of the merchant website 402 (**red**), a unique product identifier 404 (**orange**), and a unique store identifier 406 (**green**) identifying the

associate website that redirected the customer to the merchant website. Ex. 1265, 11:1-15, Fig. 4. The merchant website uses the information provided in the referral link 400 to present the customer with more detailed information about the product and an opportunity to purchase it. *Id.*, 11:1-15, 11:27-13:8, Figs. 4-7. Receiving the information provided in the referral link 400 triggers the merchant website to identify the customer based on the cookie previously stored on the customer computer and to store information about the referring associate so that a commission may be paid if the customer purchases the product. Ex. 1265, 13:28-14:11; Ex. 1202, ¶¶179-181.

#### **IV. IDENTIFICATION OF CHALLENGE PURSUANT TO 37 C.F.R. § 42.104(b)**

Petitioner requests review of claims 1, 3-11, 13-21, and 23-25 on the following grounds.

| <b>Ground</b> | <b>References</b> | <b>Basis</b> | <b>Claims Challenged</b>          |
|---------------|-------------------|--------------|-----------------------------------|
| A             | Herz-Bezos        | § 103        | 1, 3-11, 13-21, 23-25             |
| B             | Hagel-Bezos       | § 103        | 1, 3-6, 9-11, 13-16, 19-21, 23-25 |
| C             | Hagel-Bezos-Herz  | § 103        | 7-8, 17-18                        |

A declaration of Dr. Sanjay Ranka is submitted with this petition and includes, *e.g.*, a discussion of Dr. Ranka's background, the '249 patent, and the prior art, as well as his opinions and an explanation of the bases for those opinions. Ex. 1202,

¶¶1-370; Ex. 1201-1265. Dr. Ranka at least meets the level of skill of a POSITA. Ex. 1202, ¶¶4-10.

## **V. THE BOARD SHOULD NOT DISCRETIONARILY DENY INSTITUTION**

### **A. 314(a) Discretion Does Not Apply**

The *Fintiv* factors as set forth in the Director's June 21, 2022, Guidance Memorandum favor institution.

Factor one appears neutral. Petitioner has filed IPR petitions challenging all four asserted patents. If instituted, Petitioner expects to request a stay, because this IPR could resolve the dispute in its entirety.

Factor two favors institution. Trial is set for March 23, 2026—about 6 months after a final decision is expected.

Factor three does not warrant denial. Claim construction has not begun and fact discovery does not close until December 2024.

Factor four favors institution. The petition challenges all claims while Patent Owner's complaint charted only claim 1.

Factor five does not warrant denial as Petitioner is a defendant in the District Court case.

Factor six favors institution. Petitioner presents compelling unpatentability challenges.

## **B. 325(d) Discretion Does Not Apply**

None of the prior art relied on herein was before the examiner during prosecution of the '249 patent. The grounds raised by this Petition are not the same or substantially the same as the art (*e.g.*, Acxiom reference) and arguments raised during prosecution. To the extent they are, Examiner erred by failing to understand that the URL redirection missing from Acxiom was well-known (which Bezos shows) and by not combining Bezos' URL redirection techniques with Herz or Hagel.

## **VI. LEVEL OF ORDINARY SKILL**

A person of ordinary skill in the art ("POSITA") at the time of the alleged invention would have had a degree in computer engineering, computer science, or a similar discipline, and two years of experience with data communications over the Internet (including Internet advertising) and database management. Ex. 1202, ¶¶182-187.

## **VII. CLAIM CONSTRUCTION**

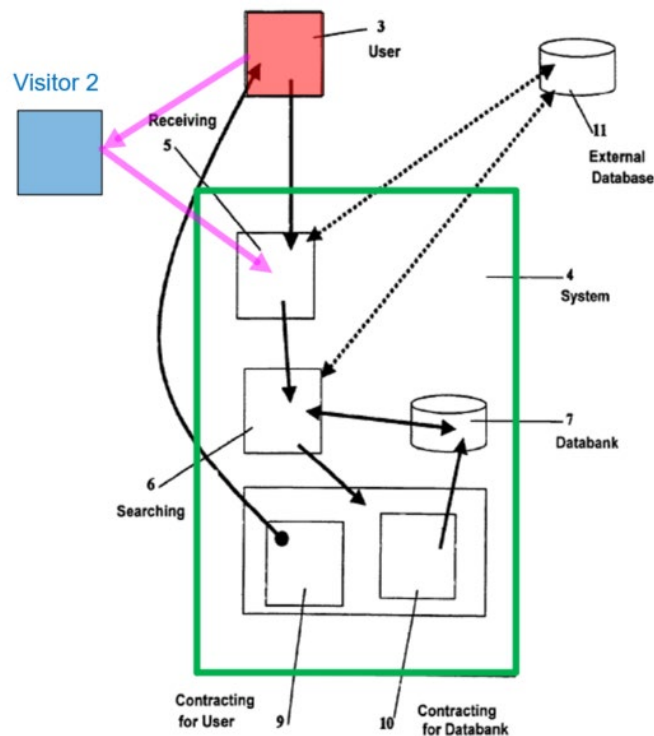
The claims should be construed under *Phillips*. 37 C.F.R. § 42.100(b); *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005). For this proceeding, Petitioner applies AlmondNet's construction of "unaffiliated third part[y/ies]" as "part[y/ies] not having common ownership with the party or parties that control said programmed computer system." Ex. 1211, pp. 30-36, 69. All other terms have been given their plain and ordinary meaning. In related proceedings, certain constructions

were proposed and/or adopted. Exs. 1210-1219; Ex. 1202, ¶¶188-210. For the reasons discussed herein, the art teaches the claim limitations under any reasonable construction, including any prior construction by the Board or a court.

## VIII. SPECIFIC GROUNDS FOR UNPATENTABILITY

### A. Ground A: Herz in view of Bezos Renders Claims 1, 3-11, 13-21, and 23-25 Obvious

For purposes of this proceeding (setting aside the above-discussed description issue), the ordinary meaning of limitations [1A] and [1C] includes a situation where **system 4** receives a partial profile from **user 3** via a **redirect** through **visitor 2**'s computer:



Ex. 1201, Fig. 2 (modified)

The proposed combination of Herz and Bezos (herein “Herz-Bezos”) teaches what’s claimed. As described in §III.B.1, Herz describes a method and system for aggregating information about a user based on the user’s interactions with multiple different vendor websites and using the collected information to provide targeted advertisements to the user over the Internet. Ex. 1241, pp. 27-28. Herz’s SDI system provides a user with different levels of privacy/anonymity based on the user’s selection of a pseudonym policy when interacting with various vendors. *Id.* For example, a user may select a relatively higher level of privacy (“Level 1”) provided by the SDI system by selecting to use a different pseudonym when interacting with each vendor. *Id.*, p. 27. Alternatively, the user may choose a relatively lower level of privacy by deciding to “simply use a unique ID that is linked to his/her true identity to interact with every vendor.” *Id.*, p. 28.

Herz’s iamworthit system similarly allows the user to have a single ID associated with a “unique record” or profile “so that replica records do not exist for the same user.” *Id.*, p. 114. As also discuss above in §III.B.1, within the iamworthit system, a vendor may request “personalized advertising” to be delivered to a user based on the profile of the user, and Herz describes a vendor sending information about a user’s interaction with the vendor to update the profile stored on the SDI server. *Id.*, pp. 114-115. Further, Herz teaches the beneficial use of cookies, for example, to identify a user, provided that the information stored in a cookie is not

shared across vendors or otherwise disturbs the user's preferred level of privacy. *Id.*, pp. 13, 25.

Bezos teaches that a customer interacting with a first website (*e.g.*, associate website 100) may be automatically redirected, using a Hypertext Transfer Protocol (HTTP) URL hyperlink, to a second website (*e.g.*, merchant website 106). Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5. In doing so, the second website is able to retrieve a cookie stored on the customer's computer and use the cookie to capture information about the customer, including the identity of the customer. *Id.* Bezos further teaches that the redirecting URL hyperlink contains information such as the unique ID of the referring store/associate website 100 and the unique ID of a product that the user selected, thereby allowing the merchant website to obtain this additional information about the user's activities. *Id.*

It would have been obvious to combine Herz's system for delivering targeted advertisements based on a central repository of customer profiles and Bezos' teachings to use automatic URL redirection to enable a website to obtain a cookie from a user and to use information within the referring URL hyperlink to further collect profile information about the user, including information that would identify the user such that updated profile information from a vendor is accurately matched to the user on Herz's SDI server. Ex. 1241, p. 114; Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5. For example, it would have been obvious to implement or modify

Herz's system such that a vendor automatically redirects a user to the SDI server, to enable the SDI server to read a cookie stored on the user's computer to obtain customer information stored in the cookie such as, for example, identifying information of the customer. Ex. 1241, p. 114. Additionally, the SDI server would also obtain information about the user's interaction with the vendor including the identity of the vendor and what product the user selected for possible purchase. *Id.* This would enable the SDI server to verify the user as desired by Herz, and would further allow the SDI server to ensure new information collected by the vendor and directly provided to the SDI server is added to the profile of the correct corresponding user as also desired by Herz. *Id.* Further, profile information of the user contained in the URL hyperlink would be obtained by the SDI server, thereby allowing Herz's SDI server to capture the most recent profile information about the user. *Id.*

A POSITA would have been motivated to combine Herz and Bezos in this way to provide profile information captured by various third-party vendor websites to the SDI system. *Id.*; Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5. As explained by Herz, the goal of the SDI system is to collect profile information about a user as the user interacts with various third-party vendor websites while maintaining the user's selected level of privacy, and Herz specifically teaches that cookies are useful for identifying a user. Ex. 1241, p. 114. Bezos provides a specific technique,

automatic URL redirection, that enables a central website (*e.g.*, the SDI server), to obtain the profile information (*e.g.*, a user's unique ID, a product the user selected for possible purchase, the website the user interacts with, etc.) about a user stored in a cookie on the user's computer and/or contained in the redirecting URL hyperlink. Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5. Such an approach would not disturb the goal of maintaining the selected privacy of the user – so that the user's actual identity would not be revealed to the vendor or any other vendor and no other entity besides the SDI server could read the cookie or URL information. *Id.*

Further, Herz-Bezos merely combines known elements (Herz's system of collecting user information across various websites and Bezos' automatic URL redirection to enable a cookie and/or URL hyperlink to be read by a central website) according to known methods (using an HTTP redirection to direct a customer from a third-party website to a central website) to yield predictable results (the URL redirection passes profile information from the third-party website to the central website). *Id.*

A POSITA would have expected success in Herz-Bezos because it involves a routine technique of using an HTTP redirect to direct a customer's browser to another website, allowing the website to capture data about the customer stored in a cookie and/or the referring URL hyperlink. A POSITA would have had the skills, including programming and database design skills, to carry out this straightforward

implementation of reading profile information stored in a cookie or URL hyperlink and obtained via URL redirection. Ex. 1202, ¶¶219-226.

**1. Independent Claim 1**

- a. [1PRE]: “1. An automated method of collecting profiles of Internet-using entities, the method comprising:”**

If the preamble is limiting, Herz teaches it with its disclosure of a “system of Secure Data Interchange [(“SDI”)] [that] enables information about bilateral and multilateral interactions between multiple persistent parties to be exchanged.” Ex. 1241, p. 3; Ex. 1240, Abstract; *see also* Ex. 1241, p. 6 (“SDI is a system of agents (with computational devices), connected via a network (Internet, wireless, or otherwise) to other agents.”), Fig. 1; Ex. 1202, ¶¶227-231.

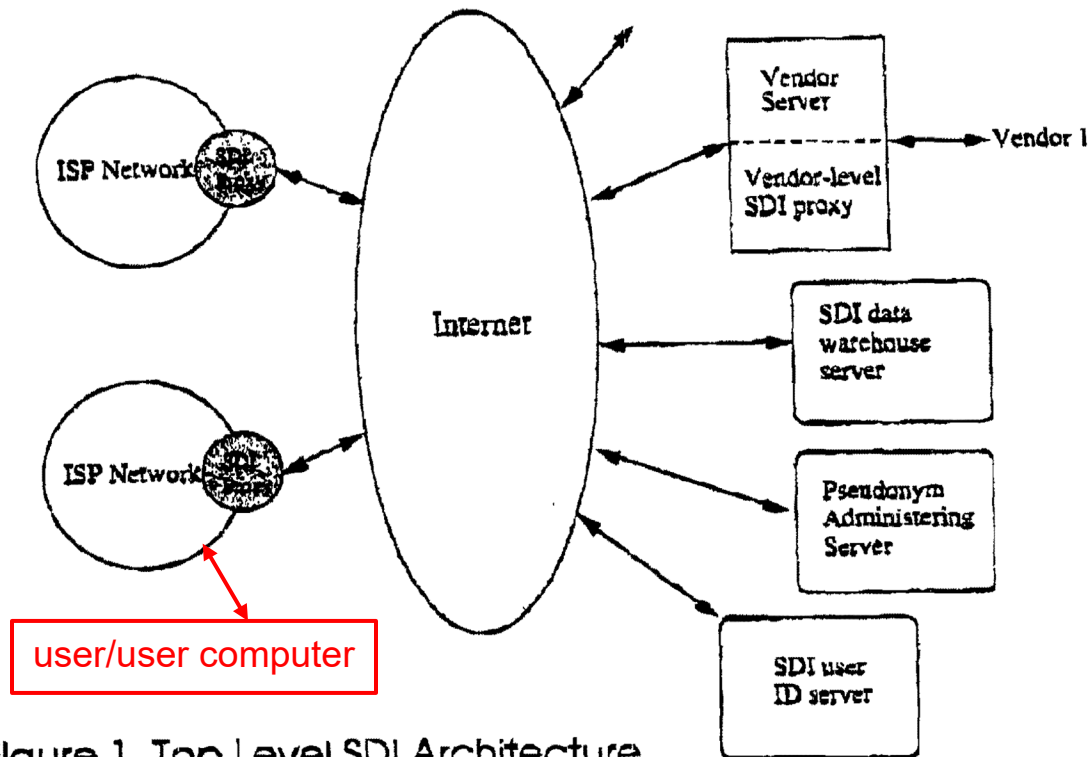


Figure 1. Top Level SDI Architecture

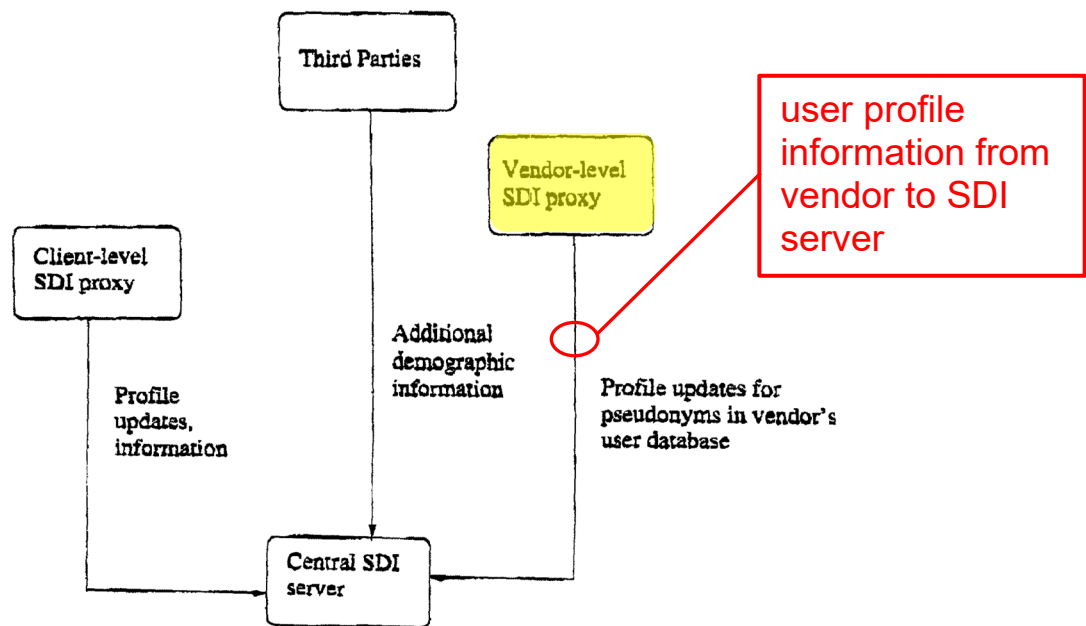
Ex. 1241, Fig. 1 (annotated)

Herz discloses profiles, explaining that “[a] profile is a record of pertinent information about a user, for example demographic information, information about web pages browsed, content information from web pages browsed, recent on-line transactions, etc.” Ex. 1241, pp. 8, 113 (describing profile information as “representing web-wide browsing, and detailed vendor-level interactions” of a user); Ex. 1202, ¶233.

More, in Herz parties interacting with other parties in the SDI are “agents” and vendors automatically collect information about agents (“Internet-using entities”) when they interact with vendors over the Internet. Ex. 1241, p. 6.

Additionally, vendors provide new information collected about a user to the SDI and the SDI updates and maintains user profiles (the claimed “automated collecting profiles of Internet-using entities”) with added new information. Ex. 1241, p. 8, Fig. 3.

Figure 3. Central SDI server Profile Updates



Ex. 1241, Fig. 3 (modified and annotated).

Thus, Herz teaches [1PRE]. Ex. 1202, ¶231.

- b. [1A]: “(a) electronically receiving at a programmed computer system coupled to a global computer network, from at least one server controlled by one of a plurality of unaffiliated third parties, a partial profile of an entity that uses a user computer coupled to the global computer network and accessing a website, which partial profile is available to one of the third parties and contains at least one profile attribute related to the entity;”

Herz teaches this limitation. Ex. 1202, ¶¶232-235. As discussed above, Herz’s SDI collects user profile information. Ex. 1241, pp. 8, 42. Additionally, in the Herz system, a user interacts with the SDI using a client computer connected to the Internet (the claimed “user computer coupled to the global computer network”) and vendors interact with the SDI through servers connected to the Internet (each the claimed “server controlled by one of a plurality of unaffiliated third parties operating respective websites”). Ex. 1241, p. 8, Fig. 1. Herz’s vendors are also unaffiliated with the SDI with which users interact. *Id.*, pp. 28, 62, 65, 87, 99, 112, 115, 118, 135.

Herz’s iamworthit (and example SDI) has a user interacting with various websites over the Internet. *Id.*, pp. 112, 113, Fig. 1.

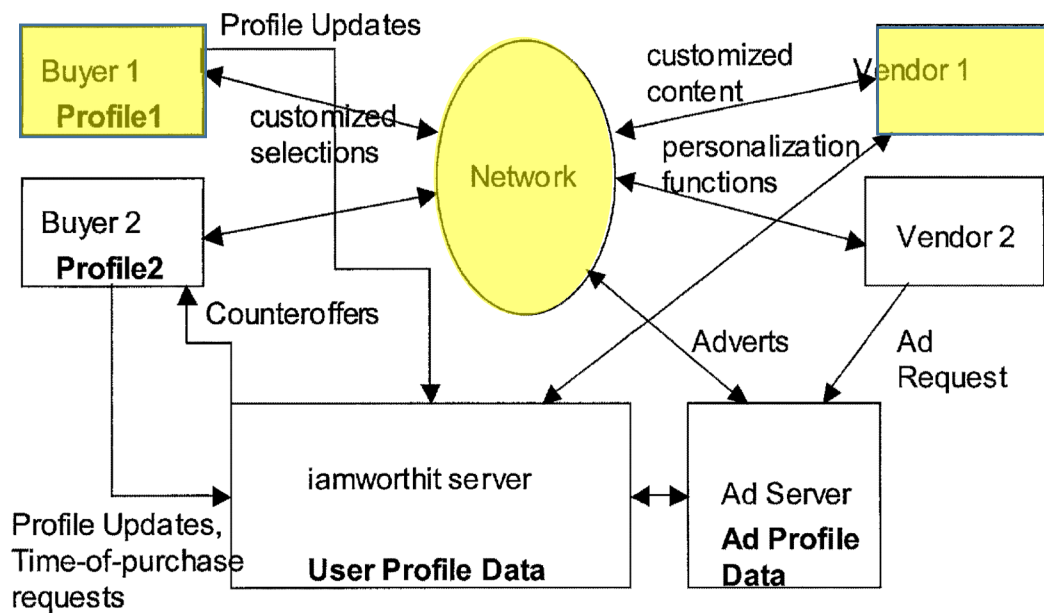


Figure 1. Overall System Architecture.

Ex. 1241, p. 113, Fig. 1 (annotated)

Herz's users interact with a vendor's website allowing the vendor to collect profile information about the user (the claimed "at least one profile attribute related to the entity") that may include "demographic information, information about web pages browsed, content information from web pages browsed, recent on-line transactions." Ex. 1241, p. 8. Finally, Herz describes that the "central SDI server can aggregate and validate new profiling information that is received" from a vendor (the claimed "automatically with the computer system electronically storing the received partial profile"). *Id.*

Thus, Herz teaches [1A]. Ex. 1202, ¶235.

- c. [1B]: “(b) automatically with the computer system electronically storing the received partial profile by adding the received partial profile to an electronically stored profile, which stored profile is believed to be related to the same entity;”

Herz teaches this limitation. Ex. 1202, ¶¶236-240. As discussed above, Herz’s SDI system (the claimed “computer system”) “maintains a central database of anonymous and randomized information about each buyer that registers with the system.” Ex. 1241, p. 114. The central database, moreover, is automatically updated when more information is learned about a user, as explained by Herz:

*When combined across different sessions, and with similar information about the browsing and purchasing habits of other customers, **the information can be folded into a long-term view of the preferences and needs of a customer.***

Ex. 1241, p. 2 (emphasis added).

Additionally, as described above in §III.B.1, Herz’s SDI server maintains a “relational database” and that profile data submitted to the SDI server is “indexed by [a user’s] pseudonym.” (the claimed “stored profile ... believed to be related to the same entity”). Ex. 1241, p. 42. Herz further describes that an existing profile is updated with new information collected about a user (the claimed “electronically ... adding the received partial profile to an electronically stored profile”) based on the pseudonym associated with the user and newly collected user information. *Id.*, p. 40

(“The Secure Data Interchange server will accept updates to the profile of a pseudonym from any party in the system that has registered with SDI. [] SDI records a vendor ID when a party other than the user makes an update to the profile of a user's pseudonym.”); Ex. 1202, ¶¶236-240. Accordingly, Herz teaches that information about a user, such as the partial profile of the user from a vendor, is added to the record maintained for that user based on the pseudonym associated with the information. Ex. 1202, ¶235.

Bezos also teaches this. Ex. 1202, ¶236. In §III.B.3, Bezos describes the merchant website comparing a customer ID from a cookie stored on a customer's computer to information stored in a customer database maintained by the merchant website, to determine if the customer is associated with a preexisting shopping cart. Ex. 1265, 8:17-31, 13:29-14:11, Figs. 1, 5; Ex. 1202, ¶236. If so, the shopping cart is automatically updated with new information about the customer—for example, the product the user selected at the associate website. Ex. 1265, 2:48-59, 7:61-8:31, 14:21-61; Ex. 1202, ¶236.

A POSITA would have been motivated to combine Bezos' teaching of a updating a shopping cart with new information about a customer in order to maintain the most up-to-date profile relating to that customer. Ex. 1202, ¶239. Moreover, such a modification would have amounted to nothing more than use of a known technique (*i.e.*, Bezos' updating profile information with new information about a

customer) to improve a similar device (*i.e.*, Herz's system) in the same way. *Id.* Additionally, a POSITA would have had a reasonable expectation of success with respect to such a modification. *Id.*

Thus, in the Herz-Bezos system, based on the teachings of Herz and/or Bezos this limitation is met. Ex. 1202, ¶240.

- d. [1C]: “(c) wherein receiving the partial profile is achieved as a result of automatic electronic URL redirection from a portion of a page of the website accessed by the user computer; and”

Herz-Bezos teaches this limitation. Ex. 1202, ¶¶241-243. Bezos teaches that a central website may receive a cookie stored on a customer's computer when the customer clicks on a URL embedded within a webpage of a third-party website, thereby redirecting the customer to the central website. §VIII.A; Ex. 1265, 7:12-18, 8:17-26; Ex. 1202, ¶¶241-243. Bezos further teaches redirecting URL hyperlinks received and processed by the central websites collecting further profile information about a user. Ex. 1265, 7:12-30, 8:17-31, 11:1-26, 13:42-67, Fig. 4; Ex. 1202, ¶¶241-243. As also described above in the introduction to §VIII.A, Herz teaches that multiple different websites provide profile information about a user to a central SDI server and that a cookie may be used to obtain information about a user. Ex. 1241, pp. 7-13, 25, 35, 40; Ex. 1202, ¶¶241-243.

A POSITA would have been motivated to combine the teaching of Bezos' URL redirection with the system of Herz to better streamline the process of sending

information to the SDI server. Ex. 1202, ¶¶241-243. Moreover, that modification amounts to nothing more than use of a known technique (*i.e.*, Bezos' URL redirection) to a similar device (*i.e.*, Herz's SDI system) to yield the predictable result of a more streamlined system. *Id.*

Accordingly, in the Herz-Bezos system, information about a user (the claimed "partial profile") is received by the SDI server as a result of the user being automatically redirected to the SDI server so that the user's cookie may be accessed along with information contained in the redirecting link (*i.e.*, the claimed "automatic electronic URL redirection from a portion of a page of the website accessed by the user computer"). *Id.*

- e. **[1D]: "(d) automatically with the computer system generating an electronic record of which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes;"**

Herz teaches this. Ex. 1202, ¶¶244-245. The SDI "will accept updates to the profile of a pseudonym from any party in the system that has registered with SDI" and that "SDI records a vendor ID when a party other than the user makes an update to the profile of a user's pseudonym." (*i.e.*, the claimed "generating [and storing] an electronic record of which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes"). Ex. 1241, p. 40; Ex. 1202, ¶¶244-245. Moreover, this is done "automatically" as claimed. Ex. 1241, p. 40; Ex. 1202, ¶¶244-245.

Bezos also teaches this. Ex. 1202, ¶246. Bezos keeps track of which associate cite referred the customer to the merchant site (*i.e.*, the claimed “which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes”). *Id.* Specifically, Bezos explains:

The parsing software extracts the unique product ID (ISBN), the *unique store ID associated with a particular associate, and an optional associate commission ID from the URL data string...* As described below, if the customer subsequently adds the selected product to the shopping cart, *the extracted information is recorded within a shopping cart data structure that corresponds to the customer.*

Ex. 1265, 12:60-13:7 (emphasis added).

A POSITA would have been motivated to combine Herz with Bezos’ tracking of which of the unaffiliated third parties contributed to the profile information in order to better compensate an unaffiliated third party (*e.g.*, one of Herz’s vendors) for the information provided. Ex. 1202, ¶247. Moreover, this modification amounts to nothing more than use of known technique (*i.e.*, Bezos’ record keeping) to improve similar devices (*i.e.*, Bezos’ shopping system and Herz’s SDI server) in the same way. *Id.* Additionally, a POSITA would have had a reasonable likelihood of success in doing so. *Id.*

Thus, Herz or Bezos alone, or Herz-Bezos teaches this limitation. Ex. 1202, ¶248.

- f. [1E]: “(e) wherein the stored profile, including the added partial profile, comprises data used in targeting third-party advertisements to the user computer over the global computer network.”

Herz discloses this limitation. Ex. 1202, ¶¶249-252. Herz describes using profile information (the claimed “the stored profile, including the added partial profile, compris[ing] data”) to send a user “real-time targeted advertising” selected by third-party vendors (the claimed “used in targeting third-party advertisements to the user computer over the global computer network”). Ex. 1241, pp. 114-115, *see also* pp. 57, 87 (“vendors target advertise to buyers based upon their profiles.”), 96 (“the vendor can direct offers and adverts to particular user profiles.”); Ex. 1202, ¶¶249-252.

As Herz explains, “[t]he system is designed to support dynamic personalized advertising, with vendor-side competition for the right to present an advert to a buyer.” Ex. 1241, p. 114. Profiles of buyers are used to “predict the probability that a buyer will respond to a particular advert, given information about the buyer in its profile.” *Id.*, p. 115. Further, with the iamworthit system, “vendors benefit through well-targeted advertising (both push and pull), the ability to customize information and services (even to first-time customers), and access to a large database of information about buyer purchasing habits.” *Id.*, p. 112, *see also* pp. 113 (“Vendors

can also contract to have iamworthit-enabled advertisements on their web pages, and to push targeted advertisements to users on other pages.”), 114 (“The user’s iamworthit ID is used ... to allow push of targeted but unsolicited messages and advertising to users from iamworthit.”), 115-118; Ex. 1202, ¶251.

Thus, for the reasons stated above, the Herz-Bezos combination renders claim 1 obvious. Ex. 1202, ¶252.

## 2. Independent Claim 11

Claim 11 is a storage medium version of claim 1 and is unpatentable for similar reasons (*see* §VIII.A.1, *supra*):

| Claim 11 | Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [11PRE]  | [11PRE] is identical to [1PRE], but additionally recites “[a] tangible, non-transitory data storage medium comprising indicia of instructions for a processor to perform” a method of “updating” profiles of Internet-using entities. Herz teaches this because Herz’s SDI server is implemented on a computer platform, which would have included a storage medium and processor for executing computer instructions, just like vendor server which Herz describes as “general purpose computers with memory and a connection to a network of other computers (clients and servers).” Ex. 1202, ¶¶227-231; Ex. 1241, p. 8. |

|                 |                                                                                                                    |
|-----------------|--------------------------------------------------------------------------------------------------------------------|
| [11A]-<br>[11E] | Identical to [1A]-[1E] and so taught by Herz-Bezos. <i>See</i> §§VIII.A.1.b-f, <i>supra</i> ; Ex. 1202, ¶¶232-252. |
|-----------------|--------------------------------------------------------------------------------------------------------------------|

### 3. Independent Claim 21

Claim 21 is a storage medium version of claim 1 and is unpatentable for similar reasons (*see* §VIII.A.1, *supra*):

| Claim 11        | Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [21PRE]         | [21PRE] is identical to [1PRE], but additionally recites “[a] tangible, non-transitory data storage medium comprising indicia of instructions for a processor to perform” a method of “updating” profiles of Internet-using entities. Herz teaches this because Herz’s SDI server is implemented on a computer platform, which would have included a storage medium and processor for executing computer instructions, just like vendor server which Herz describes as “general purpose computers with memory and a connection to a network of other computers (clients and servers).” Ex. 1202, ¶¶227-231; Ex. 1241, p. 8. |
| [21A]-<br>[21E] | Identical to [1A]-[1E] and so taught by Herz-Bezos. <i>See</i> §§VIII.A.1.b-f, <i>supra</i> ; Ex. 1202, ¶¶232-252.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

#### 4. Claims 3, 13, 23

Claims 3, 13, and 23 respectively depend from claims 1, 11, and 21. Herz-Bezos teaches the subject matter of these claims. Ex. 1202, ¶¶253-256, 291.

As discussed above with respect to [1B], Herz discloses that information about an entity (or user) can be combined “across different sessions, and with similar information about the browsing and purchasing habits of other customers, the *information can be folded into a long-term view of the preferences and needs of a customer.*” Ex. 1241, p. 2 (emphasis added). In Herz, partial profile information is sent repeatedly from the same user’s computer as that user continues with, and thus generates additional data regarding, the user’s browsing activities: the “client machine for a user periodically sends update messages to the iamworthit server, with information about new activity (*e.g.* web browsing, purchases, adverts not selected, etc.).” Ex. 1241, p. 114; Ex. 1202, ¶¶253-256, 291. This new data (*i.e.*, the received partial profile) is added to the already-stored data that was previously received from the user’s computer (the stored profile), providing the aforementioned “long-term view” of the user’s preferences. Ex. 1241, p. 114; Ex. 1202, ¶¶253-256, 291. Additionally, Herz’s system selects the profile to which the new partial profile info should be added on account of them being received from (and thus related to) the same user (or pseudonym) and, indeed, “users agree to have profile information

pushed to the iamworthit database, to enable profiling and model building for vendors, and targeted push-based advertising.” Ex. 1241, p. 114.

Bezos teaches the same concept using cookies. Ex. 1202, ¶¶253-256, 291. For example, a merchant website automatically compares the cookie stored on and received from a customer’s computer (a partial profile) to information stored in a customer database maintained by the merchant website (stored profile), to determine if the customer is associated with a preexisting shopping cart. Ex. 1265, 8:17-31, 13:29-14:11, Figs. 1, 5; Ex. 1202, ¶¶253-256, 291. If so, the shopping cart is updated with new information about the customer – for example, the product the user selected at the associate website. Ex. 1265, 2:48-59, 7:61-8:31, 14:21-61; Ex. 1202, ¶255. Bezos equates the customer with the customer’s computer, explaining that “[u]pon customer selection of a referral link, the computer program 144 utilizes the customer cookie information 140 passed through an HTTP call to determine whether the particular customer (*or technically, the customer computer 108*) already has an open shopping cart.” Ex. 1265, 13:42-46 (emphasis added). Bezos thus describes adding additional received partial profile information to a stored profile that is believed to be related to the same entity on account of them “relating to the same user computer” (computer 108 in the above example). *Id.*; Ex. 1202, ¶¶253-256, 291.

A POSITA would have been motivated to combine Bezos’ teaching of updating a shopping cart with new information about a customer on the basis of the

new information being related to the same computer as stored information already received from and relating to that computer, in order to maintain the most up-to-date profile relating to that customer and to easily and accurately associate the new information with the correct stored profile. Ex. 1202, ¶¶253-256, 291. Applying Bezos to Herz in this manner amounts to nothing more than use of a known technique (*i.e.*, Bezos’ updating profile information with new information about a customer based on the new and stored info being related to the same customer/computer) to improve a similar device (*i.e.*, Herz’s system) in the same way (the new information is easily and accurately added to the correct stored profile). *Id.* Additionally, a POSITA would have had a reasonable expectation of success with respect to this modification. *Id.*

## **5. Claims 4, 14, 24**

Claims 4, 14, and 24 respectively depend from claims 3, 13, and 23, and require that the partial and stored profiles be related to the same computer “*by automatically reading a cookie on the user computer.*” Herz-Bezos teaches this limitation. Ex. 1202, ¶¶257-258, 291.

As discussed above for claim 3, Bezos makes the determination that new information (partial profile) is related to the same computer as a particular stored profile, and thus should be added to that profile, by automatically reading and comparing a cookie stored on a customer’s computer to information stored in a

customer database. Ex. 1265, 2:48-59, 7:61-8:31, 13:29-14:11, 14:21-61, Figs. 1, 5; Ex. 1202, ¶¶257-258, 291. Thus, Herz-Bezos teaches the subject matter of these claims.

## **6. Claims 5, 15, 25**

Claims 5, 15, and 25 depend from claims 1, 11, and 21, respectively, which Herz-Bezos teaches as discussed above. *See* §VIII.A.1-3. Herz-Bezos further teaches “automatically with the computer system electronically maintaining an electronic record of which unaffiliated third party contributed, to the stored profile, the profile attributes used in targeting the advertisements” added in claim 5. Ex. 1202, ¶¶259-261, 291.

As shown with element [1D], the Herz-Bezos system maintains a record of which third party contributed which portions of the profile. *See* §VIII.A.1.e. The Herz-Bezos system provides a commission to particular stores that provided particular referrals (and partial profile information) to the system. *See* §VIII.A.1.e. Herz-Bezos also uses profile information to target ads. *See* §VIII.A.1.f. In this way, the system maintains records of which info it used to target an ad, and which third party provided that data. Ex. 1202, ¶¶259-261, 291.

Herz’s SDI functions “as the intermediary between a vast web of vendors, on the one hand, and individual consumers, on the other.” Ex. 1241, p. 42. Namely, the SDI tracks “major sources of data used by this system.” *Id.* And Herz does this

using “XML tags attached to pages browsed by the customer.” *Id.*, p. 43; Ex. 1202, ¶¶259-261, 291.

## **7. Claims 6, 16**

Claims 6 and 16 depend from claims 1 and 11, respectively, which Herz-Bezos teaches. *See* §VIII.A.1-2. Herz-Bezos teaches automatically updating a partial profile with new information. Herz, for example, teaches that its system periodically updates the user profiles (*i.e.*, the claimed partial profile) with new information (*i.e.*, the claimed “profile attributes about the entity that were not previously contained in the stored profile”). Ex. 1202, ¶¶262-264, 291; Ex. 1241, pp. 62-63. The SDI server responds to this request with “a 'Profile Update' message, that contains updated profile information.” *Id.* To determine what the update should include, the SDI server has to determine which profile information is “new” and which profile information is old (termed “out-of-date”). *Id.* In doing so, Herz’s SDI server can accurately determine what information is “new” and what information is old/out-of-date for the purposes of sending an updated profile to a requesting vendor. *Id.* A POSITA, therefore, would understand that Herz discloses “automatically with the computer system electronically determining whether the received partial profile contains any profile attributes about the entity that were not previously contained in the stored profile.” Ex. 1202, ¶¶262-264, 291.

## 8. Claims 7, 17

Claims 7 and 17 depend from claims 1 and 11, respectively, which Herz-Bezos teaches. *See* §VIII.A.1. Herz further discloses this limitation. Ex. 1202, ¶¶265-268, 291. In Herz, a first vendor purchases profile data about a user from a second vendor that collected the data. Ex. 1241, pp. 57-58, 68; Ex. 1202, ¶¶265-268, 291. As one example, section 7.2 of Herz describes a “scheme for computing the economic value of new information, for Vendor 1 that is interested in acquiring data from Vendor 2.” Ex. 1241, p. 57. As part of this scheme, the information can be authenticated and checked for accuracy. *Id.* (“if the negotiation is successful, then finally vendor 2 can send vendor 1 the information, authenticated in some way, and vendor 1 can check the accuracy of the aggregate information that was reported”); Ex. 1202, ¶¶265-268, 291.

In order for “[m]utually agreeable terms of disclosure of [user] data [to] be negotiated between the requesting and disclosing vendors,” Herz determines the accuracy of the profile data and/or the trustworthiness of the disclosing vendor (*i.e.*, the claimed “maintaining with the computer system a credibility rating associated with at least one of the profile attributes of the stored profile”). Ex. 1241, pp. 57-60, 68; Ex. 1202, ¶¶265-268, 291. Also, “[p]ayment for the information [from disclosing Vendor 2 to requesting Vendor 1] is made contingent on the accuracy of the information provided.” Ex. 1241, p. 57; Ex. 1202, ¶¶265-268, 291. Accuracy

of profile data is one form of its “credibility.” Ex. 1202, ¶¶265-268, 291. Further, Herz contemplates using a third party to establish the credibility of the information, explaining that that in some instances “third party certification is necessary to guarantee that vendor 2 is providing truthful data for the unknown fields of the records requested by vendor 1.” Ex. 1241, pp. 58, 68 (“[d]ata can be priced according to its accuracy and content.”); Ex. 1202, ¶¶265-268, 291. Moreover, “[t]he evaluation and exchange (and associated negotiation) of the data, occurs on a trusted server or the SDI proxy server where the relevant data resides.” Ex. 1241, p. 59; Ex. 1202, ¶¶265-268, 291.

Accordingly, Herz teaches that its system maintains a “credibility rating” in the form of its determining the accuracy of profile information and storing information that indicates the determined accuracy. Ex. 1202, ¶¶265-268, 291. And this accuracy determination (“credibility rating”) serves a useful purpose because it is used to determine a price for that profile data and that such information is maintained on the SDI system. *Id.*

## **9. Claims 8, 18**

Claims 8 and 18 depend from claims 1 and 11, respectively, which Herz-Bezos discloses. *See* §VIII.A.1. Herz furthermore discloses this limitation. Ex. 1202, ¶¶269-270, 291. As discussed for claim 4, Herz teaches that the price of profile data is determined based on information stored on the SDI server that

indicates its accuracy. Ex. 1241, pp. 57-59, 68 (“[d]ata can be priced according to its accuracy and content.”); Ex. 1202, ¶¶269-270, d 291.

#### **10. Claims 9, 19**

Claims 9 and 19 depend from claims 1 and 11, respectively, which Herz-Bezos discloses. *See* §VIII.A.1. Herz further discloses this limitation. Ex. 1202, ¶¶271-275, 291. As discussed for claim 4, Herz describes vendors purchasing profile data about a user, for example, from another vendor. *See* §VIII.A.5; Ex. 1202, ¶¶271-275, 291. Additionally, a vendor may select profile data based on how relevant the profile data is to the vendor and then may use the data for providing a targeted ad to a user. Ex. 1241, p. 58 (“The vendor could use the analysis of data from a similar vendor to draw implications about his/her own database of user information”)

The vendor criteria for selecting both users and appropriate targeted ads (based upon their user profiles) from a profile database can be performed entirely autonomously by the use of the present secure function evaluation method. [] Vendors can hope to reach customers who have visited other similar sites and sites which tend to be visited by similar users. Thus, the ad network is able to utilize the user database (containing virtually all of the data about what sites and target objects a user accesses) in order to effectively identify other vendors whose products and content are most frequently

accessed by the most similar users (and types thereof), suggesting the best target customers for each other's advertisements.

*Id.*, p. 60; Ex. 1202, ¶¶271-275, 291.

Herz provides an example in section 6.65, involving an airline selecting access to profile data sourced from a travel agency, a bookstore, and a sporting-goods store to develop and promote vacation packages. Ex. 1241, pp. 50-51; Ex. 1202, ¶¶271-275, 291. By specifically targeting profile data collected from these other businesses, the airline selects user profile attributes based on their source (*e.g.*, whether the source was a travel agency, a sporting-goods store, or a bookstore). Ex. 1202, ¶¶271-275, 291.

Section 6.7 provides another example of selecting profile attributes based on their source. Ex. 1241, pp. 52-53; Ex. 1202, ¶¶271-275, 291. In this example, the SDI system automatically selects and analyzes profile data from other vendors that have interacted with the same customers for example, a vendor that sells compact discs. *Id.* As with the first example, in this second example the selected profile information is “based on the source thereof” because it is selected from sources (*i.e.*, vendors) that a user has done business with. Ex. 1202, ¶¶271-275, 291.

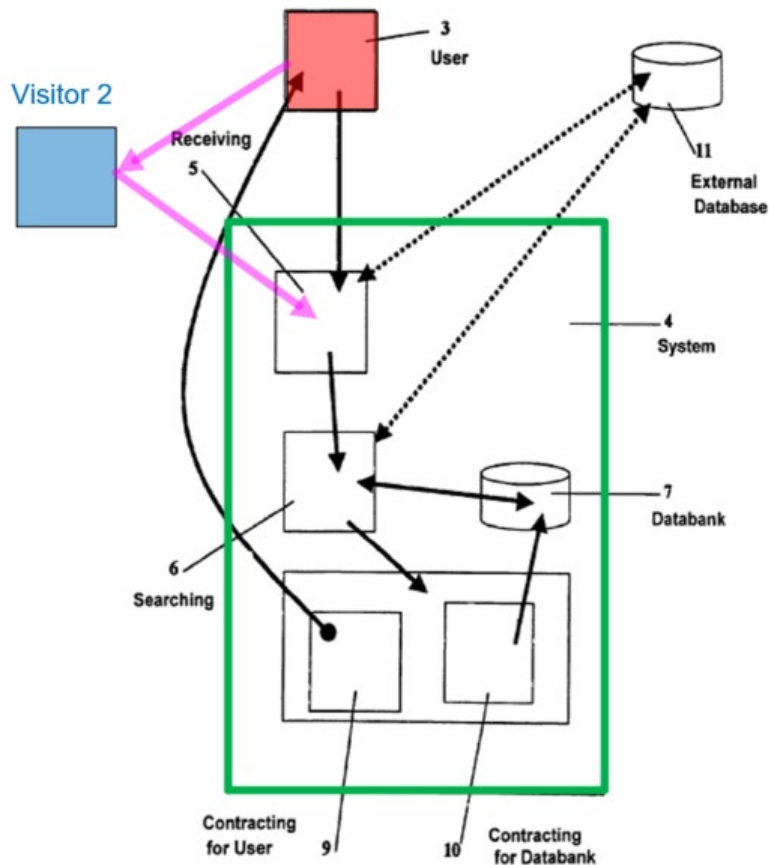
Thus, Herz teaches this limitation. Ex. 1202, ¶275.

## 11. Claims 10, 20

Claims 10 and 20 depend from claims 1 and 11, respectively, which Herz-Bezos teaches. *See* §VIII.A.1. Herz-Bezos further discloses this limitation. As explained for [1B], the SDI server of Herz-Bezos reads a cookie previously stored on the user's computer as a result of a vendor automatically redirecting the user to the SDI system using URL redirection. Ex. 1241, pp. 12-13, 25; Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5; Ex. 1202, ¶¶276-278, 291.

### **B. Ground B: Hagel in view of Bezos Renders Claims 1, 3-6, 9-11, 13-16, 19-21, and 23-25 Obvious**

As discussed above in the introduction to Ground A (§VIII.A), for purposes of this proceeding, the ordinary meaning of limitations [1A] and [1C] at least includes situations where **system 4** receives a partial profile from **user 3** via a **redirect** through **visitor 2**'s computer:



The combination of Hagel and Bezos teaches this situation. As described in §III.B.2, Hagel teaches aggregating information from various websites to build profiles of customers that are used to deliver targeted advertisements over the Internet. Ex. 1234, pp. 20-21, 28-29, 32, 42-45, 60, 91-92, 93 (Table 4-1), 111 (Table 5-1), 112, 129, 154, 159, 162, 165, 168, 172, 239, 241, 264-268, 275, Figs. 7-1, 7-2, 7-3, A-1; Ex. 1202, ¶¶292-301. Hagel’s infomediary uses its “sophisticated information capture” techniques and its relationships with third-party websites to build a customer profile as a customer interacts with the third-party websites. Ex. 1234, p. 91. Moreover, the infomediary monitors “the client’s behavior across Web

sites ... [to] give the infomediary ... a much richer client profile.” Ex. 1234, p. 45; Ex. 1202, ¶¶292-301. Hagel teaches that the infomediary uses cookies to identify a customer and to track the customer’s activity across different third-party websites, and that the infomediary also receives information about a customer directly from the third-party websites. Ex. 1234, pp. 91-92, 264-265, 275; Ex. 1202, ¶¶292-301. Hagel lacks explicit details regarding URL redirection. Ex. 1202, ¶295. However, this feature was well-known at the time of the alleged invention of the ’249 patent as evidenced by Bezos. Ex. 1202, ¶¶292-301.

As described in §III.B.3, Bezos teaches that a customer interacting with a first website (*e.g.*, associate website 100) may be automatically redirected, using an HTTP URL hyperlink, to a second website (*e.g.*, merchant website 106). Ex. 1265, 5:55-60, 7:6-36, 8:17-31, 11:1-15, 12:52-13:8, 13:42-67, 15:5-10, Figs. 1, 4-5; Ex. 1202, ¶¶292-301. The redirection enables the second website to retrieve a cookie stored on the customer’s computer and to capture information about the customer, including the identity of the customer. *Id.* Bezos further teaches that the redirecting URL hyperlink contains information including the unique ID of the referring associate website 100 and the unique ID of a product that the user selected. *Id.* By processing the URL hyperlink, the merchant website obtains this additional information related to the activities of the customer that may not be provided by the cookie. *Id.*

It would have been obvious to combine Hagel's system for delivering targeted advertisements based on a central repository of customer profiles and Bezos' teachings to use automatic URL redirection to enable an infomediary to obtain a cookie from a customer and information within a referring URL hyperlink to collect profile information about the customer because it would provide a reliable manner for Hagel's infomediary to obtain profile information about a user as the user interacts with a third-party website. Ex. 1202, ¶¶292-301; Ex. 1234, pp. 20-21, 28-29, 42-45, 60, 91-93 (Table 4-1), 111 (Table 5-1)-112, 129, 154, 159, 162, 165, 168, 172, 239, 241, 264-268, 275, Figs. 7-1, 7-2, 7-3, A-1; Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5. For example, it would have been obvious to implement or modify Hagel's system such that a website (*e.g.*, the GardenEscape website) automatically redirects a customer to a central repository (*e.g.*, an advertising network organizer infomediary like DoubleClick), to enable the central repository to read a cookie stored on the customer's computer to obtain customer information stored in the cookie, for example, browser history, purchase data, identifying information, and other behavioral information of the customer. Ex. 1202, ¶¶292-301; Ex. 1234, pp. 20-21, 28-29, 42-45, 60, 91-93 (Table 4-1), 111 (Table 5-1)-112, 129, 154, 159, 162, 165, 168, 172, 239, 241, 264-268, 275, Figs. 7-1, 7-2, 7-3, A-1; Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5. Additionally, in doing so, profile information of the customer contained in the URL hyperlink would also be obtained

by the infomediary, thereby allowing the infomediary to quickly capture the most recent web browsing activity of the customer that may not be stored in the cookie. Ex. 1202, ¶¶292-301.

A POSITA would have been motivated to combine Hagel and Bezos in this way to easily provide profile information captured by various third-party websites to an infomediary. Ex. 1202, ¶¶298-301; Ex. 1234, pp. 20-21, 28-29, 42-45, 60, 91-93 (Table 4-1), 111 (Table 5-1)-112, 129, 154, 159, 162, 165, 168, 172, 239, 241, 264-268, 275, Figs. 7-1, 7-2, 7-3, A-1; Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5. As explained by Hagel, the goal of the infomediary is to collect profile information about a customer across various third-party websites, and Hagel specifically contemplates the use of cookies and URL hyperlinks to track a customer's interactions with various third-party websites – but Hagel lacks explicit details regarding a technique that enables the infomediary to read a cookie stored on a user's computer as the user interacts with a third-party website. Ex. 1234, pp. 20-21, 28-29, 42-45, 60, 91-92, 111-112, 129, 154, 162, 264-268, 275, Fig. A-1; Ex. 1202, ¶¶295, 298-301. Bezos provides a specific technique, *i.e.*, automatic URL redirection, that enables a central website (*e.g.*, the infomediary), to obtain the profile information about a customer stored in a cookie on the customer's computer and/or contained in the redirecting URL hyperlink. Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5; Ex. 1202, ¶¶298-301.

Further, Hagel-Bezos merely combines known elements (Hagel's system of collecting user information across various websites using cookies and Bezos' automatic URL redirection to enable a cookie and URL hyperlink to be read by a central website) according to known methods (programming a remote website server to provide a referring URL hyperlink that directs a user to a central website server as taught by Bezos and programming the central website server to process the referring URL hyperlink and to obtain a cookie from the remote website server as also taught by Bezos) to yield predictable results (the URL redirection enables profile information from the third-party website to be passed to the central website/infomediary). Ex. 1202, ¶¶298-301.

A POSITA would have expected success in Hagel-Bezos because it involves a routine technique of using an HTTP redirect to direct a customer's browser to another website, allowing the website to capture data about the customer's online activities stored on a cookie and/or within the redirecting hyperlink. A POSITA would have had the skills, including programming and database design skills, to carry out this straightforward implementation of using redirecting hyperlinks and reading profile information stored in a cookie and/or hyperlink and obtained via URL redirection. *Id.*

## **1. Independent Claim 1**

### **a. [1PRE]**

To the extent the preamble is limiting, Hagel teaches it. Ex. 1202, ¶¶302-304. Hagel teaches that an infomediary has “the tools and skills required to capture information about customers and to package this information for advertisers” (claimed “automated method of collecting profiles”). Ex. 1234, p. 91; Ex. 1202, ¶¶302-304. Additionally, information about customers (claimed “Internet-using entities”) is collected across various websites as the customers interact with each website, and that the information may include transactional information like purchase histories. Ex. 1234, pp. 45, 60, 111-112, 129, 154, 159, 264 (“On-line data will be readily captured through the consumer’s browser as the consumer interacts on the Internet.”). Ex. 1202, ¶¶302-304. Hagel further teaches that the customer information is accumulated “to build an extraordinarily deep and broad informational profile of each consumer.” Ex. 1234, pp. 28, *see also* pp. 91-92; Ex. 1202, ¶¶302-304. Hagel’s infomediary uses cookies to store data about a customer’s interaction with various websites, explaining that:

A cookie resides on a customer’s hard drive and contains information about the individual that can be read back by the Web site that deposited it or by anyone else with an understanding of that Web site’s data format. A cookie can contain any information the Web site wants to include in

it: pages viewed, ads clicked, customer identification number, and so on.

Ex. 1234, pp. 274-275, *see also* pp. 17, 264-265; Ex. 1202, ¶¶302-304.

As one example, Hagel describes building “a detailed profile, not just of all book purchases, but also of all books customers ‘looked at’ on-line.” Ex. 1234, p. 32. The detailed profile covers “all booksellers the customer visited... [and] extend[s] to related content sites for example, which book reviews did the customer read in particular Web sites?” *Id.* Additionally, “this information would be collected simply by tracking customers as they visit various sites on the Internet.” *Id.*; Ex. 1202, ¶¶302-304.

Thus, Hagel teaches this limitation. Ex. 1202, ¶¶302-304.

**b. [1A]**

Hagel teaches this limitation. Ex. 1202, ¶¶305-308. Hagel’s infomediary stores customer profiles in databases maintained on centralized servers that are connected to the Internet (claimed “programmed computer system coupled to a global computer network”). Ex. 1234, pp. 31 (“centralized servers maintained by the infomediary”), 257, 264 (“Customer profiles are nothing more than a database of information with defined fields. To be most effective, this is a relational database (such as Oracle, Informix, Microsoft SQL, Server, or IBM DB2) ... allow[ing] real-time feeds from the Internet.”), 267-270, 276; Ex. 1202, ¶¶305-308.

Hagel teaches that a customer may purchase “something on-line on a secure server” of a website maintained by a third-party and that the infomediary obtains information about the customer’s interaction with the secure server from the website (claimed “electronically receiving ... from at least one server controlled by one of a plurality of unaffiliated third parties”). Ex. 1234, pp. 265-266 (“if the infomediary were to set up an agreement with selected sites such that, when one of the infomediary’s clients entered secure mode, the site would share ‘behind-the-firewall’ data. For example, an infomediary could set up an agreement with GardenEscape (www.garden.com) whereby, whenever an infomediary member entered the commerce part of its site, GardenEscape would notify the infomediary of the activity and share log files regarding this particular individual.”); Ex. 1202, ¶¶305-308.

Additionally, in Hagel, the type of information that the infomediary may obtain from the website includes transaction histories, vendor IDS, purchase histories, and search histories (claimed “which partial profile is available to one of the third parties and contains at least one profile attribute related to the entity”). Ex. 1234, pp. 45, 60, 111-112, 129, 154, 162, Table 5-1, Fig. 7-2; Ex. 1202, ¶¶305-308. As explained by Hagel, “[o]nce received at the infomediary, on-line data will be added to the individual customer’s profile.” Ex. 1234, p. 267; Ex. 1202, ¶¶305-308. Hagel therefore teaches that the websites maintained by third-parties with which the

infomediary has agreements for information sharing include the claimed “at least one server controlled by one of a plurality of unaffiliated third parties,” that information about a customer who interacts with one of the websites is obtained by the infomediary (claimed “a partial profile of an entity that uses a user computer coupled to the global computer network and accessing a website”), and that the information includes online tracking information about the customer including what pages were visited and purchase history (claimed “which partial profile is available to one of the third parties and contains at least one profile attribute related to the entity”). Ex. 1202, ¶¶305-308.

Thus, Hagel teaches this limitation. Ex. 1202, ¶¶305-308.

**c. [1B]**

As explained in Section VIII.A.1.c, Bezos teaches this limitation. Ex. 1202, ¶¶309-312. Hagel also teaches this limitation. Ex. 1202, ¶¶309-312. As described in the introduction to Section VIII.B and in relation to [1PRE] and [1A], Hagel’s infomediary receives data about a customer’s online interactions by reading a cookie stored on the customer’s computer. Hagel’s cookie may be used to identify a customer. Ex. 1234, pp. 17, 264-265, 274-275; Ex. 1202, ¶¶309-312; *see also* §VIII.B, introduction. Additionally, “[o]nce received at the infomediary, on-line data will be added to the individual customer’s profile” and thus teaches that new profile information for a customer is automatically added to an existing profile for

the user based on identifying the customer (claimed “automatically with the computer system electronically storing the received partial profile by adding the received partial profile to an electronically stored profile, which stored profile is believed to be related to the same entity”). Ex. 1234, p. 267; Ex. 1202, ¶¶309-312.

Hagel also teaches that profiles are updated as new information is obtained about a customer. Ex. 1234, pp. 264 (“Infomediaries will need to regularly update profiles with online data.”), 269; Ex. 1202, ¶¶309-312. In Hagel, “[c]ustomer profiles are nothing more than a database of information with defined fields” and “a relational database” is used to store customer profile data. Ex. 1234, pp. 264, 267. Ex. 1202, ¶¶309-312. A POSITA would have understood that an infomediary managing a database of customer profiles as taught by Hagel would add newly acquired data of a customer to an existing profile of the customer. Ex. 1202, ¶¶309-312.

Thus, Herz-Bezos teaches this limitation. Ex. 1202, ¶¶309-312.

#### **d. [1C]**

Hagel-Bezos teaches this limitation. Ex. 1202, ¶¶313-314. As explained in Section VIII.A.1.d, and in the introduction to Section VIII.B, Bezos teaches that a central website may receive a cookie stored on a customer’s computer when the customer clicks on a URL embedded within a webpage of a third-party website, thereby redirecting the customer to the central website. Ex. 1265, 7:12-20, 8:17-31,

13:42-67, Fig. 5; Ex. 1202, ¶¶313-314. Hagel teaches that the cookie may contain a wide range of information about a customer from the customer's interaction with several different websites including web-browsing activity. Ex. 1234, pp. 45, 264-265, 274-275; Ex. 1202, ¶¶313-314.

Bezos teaches that the redirecting hyperlink is also processed by the central website to collect further profile information about a customer including the store/website the customer is interacting with and a particular product for which the user has indicated interest. Ex. 1265, 7:12-30, 8:17-31, 9:22-25, 11:1-26, 13:42-67, Fig. 4; Ex. 1202, ¶¶313-314. Accordingly, Hagel-Bezos teaches that information about a customer is received by the infomediary as a result of the customer being automatically redirected from a website to the infomediary so that the customer's cookie may be accessed along with information contained in the redirecting link (claimed "wherein receiving the partial profile is achieved as a result of automatic electronic URL redirection from a portion of a page of the website accessed by the user computer."). Ex. 1202, ¶¶313-314; *see also* §VIII.B, introduction.

Thus, Hagel-Bezos teaches this limitation. Ex. 1202, ¶¶313-314.

**e. [1D]**

As discussed in Section VIII.A.1.e, Bezos teaches this limitation. Ex. 1202, ¶¶315-316. Hagel also teaches this limitation. Ex. 1202, ¶¶315-316.

Hagel's user profile contains detailed transaction history data. Ex. 1234, pp. 111 (Table 5-1), 112, 159. Hagel shows in Table 5-1, below, that the detailed transaction history includes a data element ("Vendor"), captured by the infomediary server, that identifies the vendor with which the user interacted to generate transaction data:

**TABLE 5-1**  
**Infomediary Client Information Profile Categories**

| Primary data category      | Example data elements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Descriptive data           | <ul style="list-style-type: none"> <li>• Name</li> <li>• Address (home, work, phone, e-mail)</li> <li>• Date of birth</li> <li>• Gender</li> <li>• Income</li> <li>• Credit card debt outstanding</li> <li>• Mortgage debt outstanding</li> <li>• Total investments</li> <li>• Marital status</li> <li>• Children (number, ages, gender)</li> </ul>                                                                                                                                                                                                                                                                                                   |
| Transaction history        | <ul style="list-style-type: none"> <li>• Amounts spent</li> <li>• Vendor</li> <li>• Purchase category</li> <li>• Date</li> <li>• Channel (on-line)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Direct preference measures | <ul style="list-style-type: none"> <li>• Purchase detail (product, vendor attributes)</li> <li>• Response history (to types of marketing messages and product offers)</li> <li>• Measure of media usage (what kinds of media, individual time spent)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                       |
| Trigger events             | <ul style="list-style-type: none"> <li>• Indicators of life events (relocation, college graduation, birth of a child)</li> <li>• Measures of product information browsing or requests (starting to browse on information regarding a specific travel destination, asking a vendor for product information in response to a marketing message)</li> <li>• Cluster product purchase event (home purchase, moving plans drive need for furnishings, insurance, new set of local service providers)</li> <li>• Direct client interest (client informs infomediary of interest in purchasing new car, buying furnishings, refinancing mortgage)</li> </ul> |

Ex. 1234, Table 5-1 (p. 111) (annotated)

Thus, Herz-Bezos teaches this limitation. Ex. 1202, ¶¶315-316.

**f. [1E]**

Hagel teaches this limitation. Ex. 1202, ¶¶317-321. As discussed in Section III.B.2, Hagel teaches that the infomediary will provide “targeted marketing services” including facilitating targeted advertisements from third-parties based on the customer’s stored profile data. Ex. 1234, pp. 28, 33, 35-37 (“The infomediary will also sell its clients’ willingness to receive advertisements and other marketing messages from vendors ... The infomediary would pass through to the client messages from [vendors] that meet the client’s preference profile.”), 42-46 (The infomediary’s targeted marketing service could search its database, identify the number of matches, and negotiate with the vendor to deliver targeted marketing messages to clients.”), 61-62, 64, 72, 91, 149, 152, 267-268, Fig. A-1, 7-2; Ex. 1202, ¶¶317-321.

As discussed for [1A] and [1B], Hagel teaches that customers use computers to access third-party websites and that new profile data for a customer is added to an existing profile. *See* §§VIII.B.1.b-c. Hagel also explains that “[t]he marketing messages will be delivered via e-mail” and teaches that advertisements may be directly presented by a third-party website. Ex. 1234, pp. 36-37, 275; Ex. 1202, ¶¶317-321. Hagel therefore teaches that “the stored profile, including the added partial profile, comprises data used in targeting third-party advertisements to the user computer over the global computer network.” Ex. 1202, ¶¶317-321.

Thus, Herz-Bezos teaches this limitation. Ex. 1202, ¶¶317-321.

## 2. Independent Claim 11

Claim 11 is a system claim version of claim 1 and unpatentable for similar reasons (*see* §VIII.B.1, *supra*):

| Claim 11        | Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [11PRE]         | Similar to [1PRE], but recites elements in [1A] ( <i>e.g.</i> , “computer system coupled to a global computer network and programmed to perform” the method). <i>See</i> §§VIII.B.1.a-b. [11PRE] also recites “computer system having access to a storage device” which is taught by the use of a server and database by Hagel’s infomediary to store customer profiles and to facilitate interactions with customers and vendor websites. Ex. 1234, pp. 31 (“centralized servers maintained by the infomediary”), 257, 264, 267-270, 276; Ex. 1202, ¶¶339-349. The servers and databases of the infomediary are therefore implemented on a computer platform, which would have included a storage device ( <i>e.g.</i> , memory) to store profiles and computer instructions for execution. Ex. 1202, ¶¶339-349. |
| [11A]-<br>[11E] | Nearly identical to [1A]-[1E] and of the same scope. <i>See</i> §§VIII.B.1.b-f; Ex. 1202, ¶¶339-349.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

### 3. Independent Claim 21

Claim 21 is a storage medium version of claim 1 and unpatentable for similar reasons (*see* §VIII.B.1, *supra*):

| Claim 21 | Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [21PRE]  | Similar to [1PRE], but recites “[a] tangible, non-transitory data storage medium comprising indicia of instructions for a computer system to perform” the method. Hagel teaches this because Hagel’s infomediary uses a server and database to store customer profiles and to facilitate interactions with customers and vendor websites. Ex. 1234, pp. 31 (“centralized servers maintained by the infomediary”), 257, 264, 267-270, 276; Ex. 1202, ¶¶352-354. The servers and databased of the infomediary are therefore implemented on a computer platform, which would have included a storage medium and processor for executing computer instructions. Ex. 1202, ¶¶350-360. [21PRE] additionally recites: “computer system is coupled to a global computer network and has access to a storage device” which is also taught by the use of a server and database by Hagel’s infomediary which would have included a storage device ( <i>e.g.</i> , memory) to store profiles. Ex. 1202, ¶¶350-360. |

|                 |                                                                                                                     |
|-----------------|---------------------------------------------------------------------------------------------------------------------|
| [21A]-<br>[21E] | Nearly identical to [1A]-[1E] and of the same scope. <i>See</i> §§VIII.B.1.b-f, <i>supra</i> ; Ex. 1202, ¶¶350-360. |
|-----------------|---------------------------------------------------------------------------------------------------------------------|

#### 4. Dependent Claims 3, 13, and 23

Hagel-Bezos teaches the limitation of these claims. Ex. 1202, ¶¶322-325, 361 and 361.

As discussed for [1B], Hagel's cookie is used to identify a customer and teaches that new profile information is added to an existing stored profile based on identification information associated with the customer that is provided by the cookie. *See* §VIII.B.1.c. Hagel further teaches that the cookie used to identify the customer is stored on and is specific to the customer's computer. Ex. 1234, pp. 264-265 ("A cookie ... involves the Web site's putting a piece of data into a specific file on the visitor's hard drive when the individual visits various parts of the Web site, which allows the Web site to track which visitors have gone where on the site."), 274, 275; Ex. 1202, ¶¶322-325, 361. Because the cookie is specific to the customer's computer, as taught by Hagel, the cookie not only identifies the customer but also the customer's computer. Ex. 1202, ¶¶322-325, 361.

Thus, in the Hagel-Bezos system, the partial profile is added to the stored existing profile for a customer because the information provided by the customer's computer via a stored cookie and automatically read by the infomediary indicates

that the partial profile information and existing profile information relate to the same user computer. *Id.* Hagel-Bezos therefore teaches this limitation. *Id.*

### **5. Dependent Claims 4, 14, and 24**

Hagel-Bezos teaches the limitation of these claims. Ex. 1202, ¶¶326-328, 361.

As explained for [1B] and claim 3, Hagel teaches that the infomediary automatically reads a cookie stored on the computer of a customer to identify a customer (as well as the computer the cookie is stored on) so that new profile information may be added to an existing stored profile for the customer. *See* §§ VIII.B.1.c, VIII.B.4; Ex. 1202, ¶¶326-328, 361.

Thus, Hagel-Bezos teaches this limitation. Ex. 1202, ¶¶326-328, 361.

### **6. Dependent Claims 5, 15, and 25**

Claims 5, 15, and 25 further require “*maintaining an electronic record of which unaffiliated third party contributed, to the stored profile, the profile attributes used in targeting the advertisements.*” Hagel-Bezos teaches this limitation. Ex. 1202, ¶¶329-332, 361.

As discussed above in relation to [1D], Hagel’s infomediary stores data in a customer profile that identifies a vendor that provided transaction history information involving the vendor and a customer to the infomediary. *See* § VIII.B.1.e. Hagel’s customer’s profile data is used to target advertisements to the

customer. Ex. 1234, pp. 20-21, 28-29, 42-45, 60, 91-93 (Table 4-1), 111 (Table 5-1), 112, 129, 154, 159, 162, 165, 168, 172, 239, 241, 264-268, 275, Figs. 7-1, 7-2, 7-3, A-1; Ex. 1202, ¶¶329-332, 361. Accordingly, Hagel teaches storing identifying information about the vendor that contributed profile data that is used to target advertisements to a customer. Ex. 1202, ¶¶329-332, 361.

Hagel's infomediaries help vendors "conduct more targeted searches against specific criteria in order to identify appropriate customers for their marketing messages." Ex. 1234, p. 44; Ex. 1202, ¶¶329-332, 361. As one example, Hagel states that "the infomediary might work with a vendor to identify characteristics of segments of customers who are buying competitors' products." Ex. 1234, p. 46, *see also* p. 165; Ex. 1202, ¶¶329-332, 361. Additionally, advertisements from a vendor are provided to the user through the infomediary. Ex. 1234, p. 36 ("The marketing messages will be delivered via e-mail through the infomediary."); Ex. 1202, ¶¶329-332, 361.

Accordingly, Hagel teaches that in order to generate a targeted advertisement for a user from a vendor based on the user's purchase of a product from a competitor of the vendor, the infomediary would use its database of client profiles to identify specific users that meet the criteria (*e.g.*, customers that purchased product X from vendor Y). Ex. 1202, ¶¶329-332, 361. In doing so, a POSITA would understand that a record would be generated that identifies purchases from the competitor (*e.g.*,

customer A purchased product X from vendor Y), and would serve as the basis for the vendor's target marketing message to the identified users. Ex. 1202, ¶¶329-332, 361.

Thus, Hagel-Bezos teaches this limitation. Ex. 1202, ¶¶329-332, 361.

## **7. Dependent Claims 6 and 16**

Hagel teaches the limitation of these claims. Ex. 1202, ¶¶333-335, 361.

As discussed for [1B], Hagel teaches that profiles are updated as new information is obtained about a customer. *See* §VIII.B.1.c; Ex. 1234, pp. 264 (“Infomediaries will need to regularly update profiles with online data.”), 269; Ex. 1202, ¶¶333-335, 361. Hagel's customer profiles are stored in relational databases. Ex. 1234, pp. 264, 267; Ex. 1202, ¶¶333-335, 361.

A POSITA would have understood that updating a profile stored in a database as taught by Hagel would entail adding only new information to the profile, not adding duplicative data. Ex. 1202, ¶¶333-335, 361. In doing so, Hagel's management of its profile database would be conventional, ensuring data is stored efficiently and avoiding wasting memory resources of the infomediary server. Ex. 1202, ¶¶333-335, 361.

Thus, Hagel-Bezos teaches this limitation. Ex. 1202, ¶¶333-335, 361.

## **8. Dependent Claim 9 and 19**

Hagel teaches the limitation of these claims. Ex. 1202, ¶¶336-337, 361.

As discussed above in relation to [1D] and claim 5, Hagel’s infomediary stores data in a customer profile that identifies the vendor that provided transaction history information involving the vendor and customer to the infomediary. *See* §§ VIII.B.1.e, VIII.B.6. Also, infomediarities provide vendors with “market research services” based on user profiles. Ex. 1234, p. 46; Ex. 1202, ¶¶336-337, 361. For example, Hagel states that “the infomediary might work with a vendor to identify characteristics of segments of customers who are buying competitors’ products.” Ex. 1234, p. 46; Ex. 1202, ¶¶336-337, 361. Hagel also states that “[a]n infomediary could inform a consumer electronics vendor that its latest VCR is being outsold by a competitor’s product and provide true insight regarding the causes.” Ex. 1234, p. 166; Ex. 1202, ¶¶336-337, 361. As described in relation to claim 1 (§ VIII.B.1), Hagel’s vendors provide an infomediary with data about users including, for example, products purchased by users. Ex. 1234, pp. 46, 127, 128 (Fig. 5-2), 152, 154, 159-160, 265-266; Ex. 1202, ¶¶336-337, 361. Accordingly, Hagel teaches – in view of the examples above – that to provide market research to a first vendor (*e.g.*, vendor A), an infomediary selects profile data provided by a second vendor (*e.g.*, vendor B, a competitor to vendor A), to identify users who purchased a product from the second vendor. Ex. 1202, ¶¶336-337, 361. In doing so, Hagel teaches that the infomediary selects profile data based on its source – that is, profile data provided

by the second vendor indicating users that purchased a product from the second vendor. Ex. 1202, ¶¶336-337, 361.

Thus, Hagel-Bezos teaches this limitation. Ex. 1202, ¶¶336-337, 361.

## **9. Dependent Claims 10 and 20**

Hagel teaches the limitation of these claims. Ex. 1202, ¶¶338, 361.

As explained for [1C], the infomediary server of Hagel-Bezos reads a cookie previously stored on the user's computer as a result of a vendor automatically redirecting the user to the infomediary using URL redirection. Ex. 1234, pp. 45, 264-265, 274-275; Ex. 1265, 7:12-18, 8:17-31, 13:42-59, Fig. 5; Ex. 1202, ¶¶338, 361; §VIII.B.1.d.

## **C. Ground C: Hagel-Bezos in view of Herz Renders Claims 7-8 and 17-18 Obvious**

### **1. Dependent Claims 7 and 17**

As discussed above in Section VIII.A.8, Herz teaches this limitation. Ex. 1202, ¶¶362-365, 368. In particular, information stored on the SDI server is used to determine the accuracy and/or authenticity of data within a user's profile (claimed "credibility rating associated with at least one of the profile attributes of the stored profile."). Ex. 1241, pp. 57-60, 68; Ex. 1202, ¶¶362-365, 368.

Hagel describes vendors paying customers for information they provide: "The infomediary will facilitate the transaction by setting up a payment process for vendors to pay clients, by providing a mechanism for the release of the customer's

information upon payment, and by negotiating the terms of information disclosure.” Ex. 1238, p. 38, *see also* p. 41 (“Clients will also receive cash payments in return for providing selected vendors with access to their information profiles, either through the purchaser identification service or the targeted marketing service.”); 1202, ¶¶362-365, 368.

A POSITA would have been motivated to modify the infomediary system described in Hagel-Bezos to store information indicating the accuracy and/or authenticity of profile data as taught by Herz in order to facilitate negotiations between vendors and customers for payment of customer profile data. Ex. 1202, ¶¶362-365 and 368. In doing so, Hagel’s goal of incentivizing customers to share profile data and providing opportunities for vendors to obtain relevant user data is advanced. Ex. 1202, ¶¶362-365, 368.

Moreover, combining Herz with Hagel-Bezos is nothing more than applying a known technique (obtaining and storing information indicating an accuracy and/or authenticity of provided profile data as taught by Herz) to a known method (Hagel-Bezos’s method of allowing customers and vendors to negotiate for the release of customer profile data) ready for improvement to yield a predictable result (the purchase of customer profile data by a vendor is more reliable and fair based on an assured accuracy and/or authenticity of the customer profile data being obtained).

Ex. 1202, ¶¶362-365, 368. Further, the result would have been predictable to a POSITA. Ex. 1202, ¶¶362-365, 368.

Thus, Hagel-Bezos-Herz teaches this limitation. Ex. 1202, ¶¶362-365, 368.

## **2. Dependent Claims 8 and 18**

As discussed in Section VIII.A.9, Herz teaches that the price of profile data is determined based on information stored on the SDI server that indicates its accuracy and/or authenticity (claimed “wherein the credibility rating is reflected in a price for the at least one profile attribute”). Ex. 1241, pp. 57-59, 68 (“Data can be priced according to its accuracy and content.”); Ex. 1202, ¶¶366-368. Accordingly, in the Hagel-Bezos-Herz system, information indicating the accuracy and/or authenticity of customer profile data would be used to determine a price for purchasing the customer profile data. Ex. 1202, ¶¶366-368.

Thus, Hagel-Bezos-Herz teaches this limitation. Ex. 1202, ¶¶366-368.

## **IX. GROUNDS FOR STANDING & FEE PAYMENT**

Petitioner hereby certifies that the '249 patent is available for, and Petitioner is not barred or estopped from requesting, this *inter partes* review.

The undersigned authorizes the charge of any required fees to Deposit Account No. 19-0733.

## **X. CONCLUSION**

*Inter partes* review should be instituted and claims 1, 3-11, 13-21, and 23-25 canceled.

Dated: March 1, 2024

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## **CERTIFICATION UNDER 37 CFR § 42.24(d)**

Under the provisions of 37 CFR § 42.24(d), the undersigned hereby certifies that the word count for the foregoing Petition for Inter Partes Review totals 13,834, which is less than the 14,000 allowed under 37 CFR § 42.24(a)(1)(i). This total includes 13,820 words as counted by the Word Count feature of Microsoft Word and 14 words used in annotations.

Pursuant to 37 C.F.R. § 42.24(a)(1), this count does not include the table of contents, the table of authorities, mandatory notices under § 42.8, the certificate of service, this certification of word count, the claims listing appendix, or appendix of exhibits.

BANNER & WITCOFF, LTD

Dated: March 1, 2024

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## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.105, I hereby certify that I caused a true and correct copy of this Petition for *Inter Partes* Review in connection with U.S. Patent No. 8,775,249 and supporting evidence to be served via FedEx Priority Overnight on March 1, 2024, on the following:

LOUIS J. HOFFMAN, P.C.  
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Dated: March 1, 2024

By: /Frederic M. Meeker/

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## CLAIMS LISTING APPENDIX

U.S. Pat. No. 8,775,249

| Designation          | Claim Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Claim 1              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| [1PRE]               | 1. An automated method of collecting profiles of Internet-using entities, the method comprising:                                                                                                                                                                                                                                                                                                                                                                                                               |
| [1A]                 | (a) electronically receiving at a programmed computer system coupled to a global computer network, from at least one server controlled by one of a plurality of unaffiliated third parties, a partial profile of an entity that uses a user computer coupled to the global computer network and accessing a website, which partial profile is available to one of the third parties and contains at least one profile attribute related to the entity;                                                         |
| [1B]                 | (b) automatically with the computer system electronically storing the received partial profile by adding the received partial profile to an electronically stored profile, which stored profile is believed to be related to the same entity;                                                                                                                                                                                                                                                                  |
| [1C]                 | (c) wherein receiving the partial profile is achieved as a result of automatic electronic URL redirection from a portion of a page of the website accessed by the user computer; and                                                                                                                                                                                                                                                                                                                           |
| [1D]                 | (d) automatically with the computer system generating an electronic record of which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes;                                                                                                                                                                                                                                                                                                            |
| [1E]                 | (e) wherein the stored profile, including the added partial profile, comprises data used in targeting third-party advertisements to the user computer over the global computer network.                                                                                                                                                                                                                                                                                                                        |
| Claim 2 [DISCLAIMED] |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 2                    | 2. The method of claim 1 further comprising, in accordance with a predetermined arrangement, automatically using the electronic record of which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes to create electronic data used to identify a payment amount due to the unaffiliated third party as a result of using at least one of the profile attributes in the partial profile contributed by that third party in targeting the third-party |

| Designation | Claim Language                                                                                                                                                                                                                                                                 |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             | advertisements to the entity's computer over the global computer network.                                                                                                                                                                                                      |
| Claim 3     |                                                                                                                                                                                                                                                                                |
| 3           | 3. The method of claim 1 wherein part (b) comprises the computer system adding the received partial profile to a stored profile believed related to the same entity on account of the received partial profile and the stored profile being related to the same user computer. |
| Claim 4     |                                                                                                                                                                                                                                                                                |
| 4           | 4. The method of claim 3 wherein the computer system determines that the received partial profile and the stored profile are related to the same user computer by automatically reading a cookie on the user computer.                                                         |
| Claim 5     |                                                                                                                                                                                                                                                                                |
| 5           | 5. The method of claim 1 further comprising automatically with the computer system electronically maintaining an electronic record of which unaffiliated third party contributed, to the stored profile, the profile attributes used in targeting the advertisements.          |
| Claim 6     |                                                                                                                                                                                                                                                                                |
| 6           | 6. The method of claim 1 further comprising automatically with the computer system electronically determining whether the received partial profile contains any profile attributes about the entity that were not previously contained in the stored profile.                  |
| Claim 7     |                                                                                                                                                                                                                                                                                |
| 7           | 7. The method of claim 1 further maintaining with the computer system a credibility rating associated with at least one of the profile attributes of the stored profile.                                                                                                       |
| Claim 8     |                                                                                                                                                                                                                                                                                |
| 8           | 8. The method of claim 7 wherein the credibility rating is reflected in a price for the at least one profile attribute.                                                                                                                                                        |
| Claim 9     |                                                                                                                                                                                                                                                                                |
| 9           | 9. The method of claim 1 further comprising automatically with the computer system selecting profile attributes from the stored profile based on the source thereof.                                                                                                           |
| Claim 10    |                                                                                                                                                                                                                                                                                |

| Designation           | Claim Language                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10                    | 10. The method of claim 1 further comprising automatically with the computer system electronically reading a cookie previously stored on the entity's computer, as a result of the URL redirection.                                                                                                                                                                                                      |
| Claim 11              |                                                                                                                                                                                                                                                                                                                                                                                                          |
| [11PRE]               | 11. A computer system coupled to a global computer network and programmed to perform an automated method of collecting profiles of Internet-using entities, the computer system having access to a storage device, the method performed by the programmed computer system comprising:                                                                                                                    |
| [11A]                 | (a) electronically receiving at the computer system, from at least one server controlled by one of a plurality of unaffiliated third parties, a partial profile of an entity that uses a user computer coupled to the global computer network and accessing a website, which partial profile is available to one of the third parties and contains at least one profile attribute related to the entity; |
| [11B]                 | (b) automatically with the computer system electronically storing in the storage device the received partial profile by adding the received partial profile to a profile electronically stored in the storage device, which stored profile is believed to be related to the same entity;                                                                                                                 |
| [11C]                 | (c) wherein receiving the partial profile is achieved as a result of automatic electronic URL redirection from a portion of a page of the website accessed by the user computer; and                                                                                                                                                                                                                     |
| [11D]                 | (d) automatically with the computer system generating an electronic record of which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes;                                                                                                                                                                                                      |
| [11E]                 | (e) wherein the stored profile, including the added partial profile, comprises data used in targeting third-party advertisements to the user computer over the global computer network.                                                                                                                                                                                                                  |
| Claim 12 [DISCLAIMED] |                                                                                                                                                                                                                                                                                                                                                                                                          |
| 12                    | 12. The computer system of claim 11 wherein the automatic method performed by the programmed computer system further comprises, in accordance with a predetermined arrangement, automatically using the electronic record of                                                                                                                                                                             |

| Designation | Claim Language                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|             | which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes to create electronic data used to identify a payment amount due to the unaffiliated third party as a result of using at least one of the profile attributes in the partial profile contributed by that third party in targeting the third-party advertisements to the entity's computer over the global computer network. |
| Claim 13    |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 13          | 13. The computer system of claim 11 wherein part (b) comprises the computer system adding the received partial profile to a stored profile believed related to the same entity on account of the received partial profile and the stored profile being related to the same user computer.                                                                                                                                                      |
| Claim 14    |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 14          | 14. The computer system of claim 13 wherein the computer system determines that the received partial profile and the stored profile are related to the same user computer by automatically reading a cookie on the user computer.                                                                                                                                                                                                              |
| Claim 15    |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 15          | 15. The computer system of claim 11 wherein the automatic method performed by the programmed computer system further comprises automatically with the computer system electronically maintaining an electronic record of which unaffiliated third party contributed, to the stored profile, the profile attributes used in targeting the advertisements.                                                                                       |
| Claim 16    |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 16          | 16. The computer system of claim 11 wherein the automatic method performed by the programmed computer system further comprises automatically with the computer system electronically determining whether the received partial profile contains any profile attributes about the entity that were not previously contained in the stored profile.                                                                                               |
| Claim 17    |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 17          | 17. The computer system of claim 11 wherein the automatic method performed by the programmed computer system further comprises maintaining with the computer system a credibility rating associated with at least one of the profile attributes of the stored profile.                                                                                                                                                                         |

| Designation | Claim Language                                                                                                                                                                                                                                                                                                                                                                                           |
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| Claim 18    |                                                                                                                                                                                                                                                                                                                                                                                                          |
| 18          | 18. The computer system of claim 17 wherein the credibility rating is reflected in a price for the at least one profile attribute.                                                                                                                                                                                                                                                                       |
| Claim 19    |                                                                                                                                                                                                                                                                                                                                                                                                          |
| 19          | 19. The computer system of claim 11 wherein the automatic method performed by the programmed computer system further comprises automatically with the computer system selecting profile attributes from the stored profile based on the source thereof.                                                                                                                                                  |
| Claim 20    |                                                                                                                                                                                                                                                                                                                                                                                                          |
| 20          | 20. The computer system of claim 11 wherein the automatic method performed by the programmed computer system further comprises automatically with the computer system electronically reading a cookie previously stored on the entity's computer, as a result of the URL redirection.                                                                                                                    |
| Claim 21    |                                                                                                                                                                                                                                                                                                                                                                                                          |
| [21PRE]     | 21. A tangible, non-transitory data storage medium comprising indicia of instructions for a computer system to perform an automated method of collecting profiles of Internet-using entities, wherein the computer system is coupled to a global computer network and has access to a storage device, the method performed according to the instructions comprising:                                     |
| [21A]       | (a) electronically receiving at the computer system, from at least one server controlled by one of a plurality of unaffiliated third parties, a partial profile of an entity that uses a user computer coupled to the global computer network and accessing a website, which partial profile is available to one of the third parties and contains at least one profile attribute related to the entity; |
| [21B]       | (b) automatically with the computer system electronically storing in the storage device the received partial profile by adding the received partial profile to a profile electronically stored in the storage device, which stored profile is believed to be related to the same entity;                                                                                                                 |
| [21C]       | (c) wherein receiving the partial profile is achieved as a result of automatic electronic URL redirection from a portion of a page of the website accessed by the user computer; and                                                                                                                                                                                                                     |

| Designation           | Claim Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| [21D]                 | (d) automatically with the computer system generating an electronic record of which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes;                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| [21E]                 | (e) wherein the stored profile, including the added partial profile, comprises data used in targeting third-party advertisements to the user computer over the global computer network.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Claim 22 [DISCLAIMED] |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 22                    | 22. The data storage medium of claim 21 wherein the automatic method performed according to the instructions further comprises, in accordance with a predetermined arrangement, automatically using the electronic record of which of the plurality of unaffiliated third parties contributed to the stored profile particular profile attributes to create electronic data used to identify a payment amount due to the unaffiliated third party as a result of using at least one of the profile attributes in the partial profile contributed by that third party in targeting the third-party advertisements to the entity's computer over the global computer network. |
| Claim 23              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 23                    | 23. The data storage medium of claim 21 wherein part (b) comprises the computer system adding the received partial profile to a stored profile believed related to the same entity on account of the received partial profile and the stored profile being related to the same user computer.                                                                                                                                                                                                                                                                                                                                                                               |
| Claim 24              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 24                    | 24. The data storage medium of claim 23 wherein instructions cause the computer system to determine that the received partial profile and the stored profile are related to the same user computer by automatically reading a cookie on the user computer.                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Claim 25              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 25                    | 25. The data storage medium of claim 21 wherein the automatic method performed according to the instructions further comprises automatically with the computer system electronically maintaining an electronic record of which                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| Designation | Claim Language                                                                                                            |
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|             | unaffiliated third party contributed, to the stored profile, the profile attributes used in targeting the advertisements. |