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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	RV E1 US	2529

93220 7590 08/19/2020

Jones IP Group
2500 Dallas Parkway
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EXAMINER	
DYER, ANDREW R	

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
08/19/2020	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@jonesip.com
eofficeaction@appcoll.com

Notice of Abandonment	Application No.	Applicant(s)
	12/316,781	Krassner et al.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☑ Applicants failure to timely file a proper reply to the Office letter mailed on 06 December 2019.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) if this is utility or plant application, a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Note that RCEs are not permitted in design applications.)
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 8 below).
   (d) ☑ No reply has been received.

2. ☐ Applicants failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $ _____ is insufficient. A balance of $ _____ is due.
   The issue fee required by 37 CFR 1.18 is $ _____. The publication fee, if required by 37 CFR 1.18(d), is $ _____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicants failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record or other party authorized under 37 CFR 1.33(b). See 37 CFR 1.138(b).

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34) upon the filing of a continuing application.

6. ☐ The decision by the Patent Trial and Appeal Board rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The dismissal of the appeal in an application having no allowed claims. (When an appeal is dismissed in an application having no allowed claims the application stands abandoned. See MPEP 1215.04 subsections I-V for an explanation of the reasons why an appeal is dismissed.)

8. ☐ The reason(s) below:

_____

/WANDA M BARNES/

Petitions to revive under 37 CFR 1.137, or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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eofficeaction@appcoll.com

Office Action Summary	Application No. 12/316,781	Applicant(s) Krassner et al.	
	Examiner ANDREW R DYER	Art Unit 2176	AIA (FITF) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☑ Responsive to communication(s) filed on 08 August 2019.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☑ This action is **FINAL.** 2b) ☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5) ☑ Claim(s) 23,65-79 and 84-95 is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☑ Claim(s) 23,65-79 and 84-95 is/are rejected.

8) ☐ Claim(s) _____ is/are objected to.

9) ☐ Claim(s) _____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to **PPHfeedback@uspto.gov.**

Application Papers

10)☑ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☑ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

4) ☐ Other: _____.

DETAILED ACTION

This is a response to the Amendment to Application # 12/316,781 filed on August 8, 2019 in which claims 23 and 65-79 were amended, claims 80-83 were cancelled, and claims 84-95 were added.

Notice of Pre-AIA or AIA Status

The present application is being examined under the pre-AIA first to invent provisions.

Status of Claims

Claims 23, 65-79, and 84-95 are pending, of which claims 23, 65-79, and 84-95 are rejected under 35 U.S.C. § 112, second paragraph; claims 85 and 87 are rejected under 35 U.S.C. § 102(b); and claims 23, 65-79, 84, 86, and 88-95 are rejected under 35 U.S.C. § 103(a).

EXAMINER'S NOTE REGARDING BROWSER-EXECUTABLE CODE

Although the disclosure contains embedded hyperlinks and other form of browser-executable code (See, *for example*, Spec. 44-49), this code is not for the purpose of incorporating additional material by reference, but to explain how the claimed invention works. See MPEP § 608.01(VII). Therefore, no objection is being made to the specification due to the embedded hyperlinks and/or browser-executable code.

Specification

The use of the terms JAVASCRIPT, JSCRIPT, ESCMASCRIPT, WINDOWS, UNIX, LINUX, SQL SERVER, MYSQL, ORACLE, POSTGRESQL, MACROMEDIA, ADOBE, FLASH, and ACTIONSCRIPT which are trademarks used in commerce, have been noted in this application. Trademarks should be **FULLY** capitalized wherever they appear. See MPEP § 608.01(v).

Although the use of trade names and marks used in commerce (i.e., trademarks, service marks, certification marks, and collective marks) are permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as commercial marks.

Claim Objections

Claim 65 is objected to because of the following informalities: the claimed limitation "causing a counter to stop counting an amount of time that the rendered advertisement was visible" is confusing because the claims do not require a counter to begin counting and amount of time. Thus, the claim appears to allow for a situation in which this limitation cannot be met because no counter was ever started.

Further, this claims refers to "new advertising content," which is confusing and uses inconsistent terminology with itself and parent claim 23.

Appropriate correction is required.

Claim 66 is objected to because of the following informalities: "the web page the code" is grammatically incorrect and confusing. Appropriate correction is required.

Claim 75 is objected to because of the following informalities: "sytem" should be replaced with "system." Appropriate correction is required.

Claims 86-95 are objected to because of the following informalities: these claims are inconsistently formatted in comparison to the previously present claims. Appropriate correction is required.

Claim 86 is objected to because of the following informalities: "Tracking" is improperly capitalized. Appropriate correction is required.

Claim 87 is objected to because of the following informalities: this claim contains an extraneous "[0010]". Appropriate correction is required.

Claim 93 is objected to because of the following informalities: this claim refers to a "webpage" while all other claims refer to a "web page." Appropriate correction is required.

Claim 95 is objected to because of the following informalities: the claim limitations "causing an advertisement previously-rendered in the pre-defined area to be removed; transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window" should be separated by a line break. Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of 35 U.S.C. § 112 (pre-AIA), second paragraph:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23, 65-79, and 84-95 are rejected under 35 U.S.C. § 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor, or for pre-AIA the applicant regards as the invention.

Regarding **claim 23,** this claim twice refers to "an advertisement" at lines 8 and 10. The Examiner cannot determine if these refer to the same advertisement (i.e., "an advertisement" and "the

advertisement") or if these refer to different advertisements (i.e., "a first advertisement" and "a second advertisement"). Therefore, this claim is indefinite.

Regarding **claim 65**, this claim refers to "an advertisement" and "the rendered advertisement." However, parent claim 23 refers to two advertisements, each of which may be rendered. Therefore, the Examiner cannot determine which of the previous advertisement and rendered advertisement these refer.

Additionally, this claim references "a pre-defined area." However, parent claim 23 refers to a first and second pre-defined area. Therefore, the Examiner cannot determine which of the pre-defined areas this refers.

Therefore, this claim is indefinite.

Regarding **claim 67**, this claim includes the limitation "a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the web page." A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131

USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 67 recites the broad recitation "a signal is sent from the computing system to a server," and the claim also recites "whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the web page," which is the narrower statement of the range/limitation.

Therefore, this claim is indefinite.

Regarding **claim 75**, this claim includes the limitation "then, by code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing sy[s]tem." The use of the term "then" creates mutually exclusive interpretations of this limitation. First, the term "then" may be interpreted to refer to an implicit "if" from the previous limitation that determines "whether a pre-defined area in a web page is within a pre-defined distances outside the visible area." Under this interpretation, the "then" limitation becomes conditional. The term "then" may also be interpreted to merely indicate that the "then" limitation occurs "after" the "determining" limitation.

"[I]f a claim is amenable to two or more plausible claim constructions, the USPTO is justified in requiring the applicant to more precisely define the metes and bounds of the claimed invention by holding the claim unpatentable under 35 U.S.C. § 112, second paragraph, as indefinite." *Ex parte Miyazaki*, 89 USPQ2d 1207, 1211 (BPAI 2008) (precedential). *See also Ex parte McAward*, Appeal 2015-006416 (PTAB 2017) (precedential) (affirming the holding in *Ex parte Miyazaki*).

Further, this limitation contains a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) that is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection

desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 75 recites the broad recitation "then, by code executed by the computing system signaling a server," and the claim also recites "whereby in response to the signaling to the server an advertisement is downloaded to the computing sy[s]tem," which is the narrower statement of the range/limitation.

Therefore, this claim is indefinite.

Regarding **claim 77**, this claim twice refers to "an advertisement previously-rendered." The Examiner cannot determine if these refer to the same advertisement previously-rendered (i.e., "an advertisement previously-rendered" and "the advertisement previously-rendered") or if these refer to different advertisements previously-rendered (i.e., "a first advertisement previously-rendered" and "a second advertisement previously-rendered"). Therefore, this claim is indefinite.

Regarding **claim 84**, this claim includes the limitation "then determining whether a third pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window." The use of the term "then" creates mutually exclusive interpretations of this limitation. First, the term "then" may be interpreted to refer to an implicit "if" from the previous limitation that determines "whether a second pre-defined area in a web page is within a pre-defined

distances outside the visible area." Under this interpretation, the "then" limitation becomes conditional. The term "then" may also be interpreted to merely indicate that the "then" limitation occurs "after" the previous "determining" limitation.

"[I]f a claim is amenable to two or more plausible claim constructions, the USPTO is justified in requiring the applicant to more precisely define the metes and bounds of the claimed invention by holding the claim unpatentable under 35 U.S.C. § 112, second paragraph, as indefinite." *Ex parte Miyazaki*, 89 USPQ2d 1207, 1211 (BPAI 2008) (precedential). *See also Ex parte McAward*, Appeal 2015-006416 (PTAB 2017) (precedential) (affirming the holding in *Ex parte Miyazaki*).

Therefore, this claim is indefinite.

Regarding **claim 85**, this claim includes the limitations "determining, by code executed by a computing system, ***whether*** a pre-defined area in a web page is at least partially within a visible area of an application window on a display device; transmitting an indication to another computing system ***that the pre-defined area is at least partially within the visible area of the application***." (Emphasis added). This claim appears to require that an indication that the pre-defined area is at least partially within the visible area of the application in every instance, regardless of the outcome of the previous determination step. In other words, even if the claimed method determines that the pre-defined area is not at least partially within a visible area of an application window, the method will still transmit an indication that the pre-defined area is within the visible area of an application window. However, such a result does not appear to be within the scope of the invention as disclosed by the present specification. Therefore, this claim is indefinite.

Regarding **claim 93**, this claim references "a pre-defined area." However, parent claim 23 refers to a first and second pre-defined area. Therefore, the Examiner cannot determine which of the pre-defined areas this refers. Therefore, this claim is indefinite.

Regarding **claim 95**, this claim references "a pre-defined area." However, parent claim 23 refers to a first and second pre-defined area. Therefore, the Examiner cannot determine which of the pre-defined areas this refers. Therefore, this claim is indefinite.

Regarding **claims 65-74, 76-79, and 86-95**, these claims depend from at least one of the above claims and, therefore, inherit the rejection of that claim.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 85 and 87 are rejected under pre-AIA 35 U.S.C. § 102(b) as being anticipated by Mitchell et al., US Patent 6,983,331 (*hereinafter* Mitchell), as cited on the Information Disclosure Statement dated September 23, 2016.

Regarding **claim 85**, Mitchell discloses a method comprising "determining, by code executed by a computing system, whether a pre-defined area in a web page is at least partially within a visible area of an application window on a display device" (Mitchell col. 8, ll. 54-61) **by disclosing that the system determines "additional content 72" can be displayed in "additional content display area 62;" or in**

other words, it determines whether additional content display area 62 is within the visible area of the application window.

Additionally, Mitchell discloses "transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application." (Mitchell col. 12, ll. 43-50).

Further, (Mitchell col. 12, ll. 43-50). Discloses "after transmitting the indication, downloading content from a computing system." (Mitchell col. 12, ll. 43-50).

Finally, Mitchell discloses "rendering the downloaded content in the pre-defined area of the application window on the display device." (Mitchell col. 12, ll. 43-50).

Regarding **claim 87**, Mitchell discloses the limitations contained in parent claim 85 for the reasons discussed above. In addition, Mitchell discloses "each pre-defined area has a tag associated with the pre-defined area" (Mitchell col. 13, l. 60-col. 14, l. 12) **where each area is associated with a DIV tag.**

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicants are advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention

dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. §§ 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claims 23, 66-72, 74-76, 84, and 92-95 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Mitchell in view of Koeppel et al., US Publication 2005/0177401 (*hereinafter* Koeppel), as cited on the Information Disclosure Statement dated September 23, 2016, in further view of Donnelly, US Patent 7,256,779.

Regarding **claim 23**, Mitchell discloses a method comprising "determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device" (Mitchell col. 8, ll. 54-61) **by disclosing that the system determines "additional content 72" can be displayed in "additional content display area 62;" or in other words, it determines whether additional content display area 62 is within the visible area of the application window.**

Additionally, Mitchell discloses **"**whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window" (Mitchell col. 8, ll. 48-53, *see also* col. 16, ll. 43-45) **by disclosing that there may be multiple "portions" into which content is inserted and by determining that the second predefined area is within the pre-defined distance of 0 outside of the visible area.**

Further, Mitchell discloses that the coordinates of each item is used to determine the areas of content. (Mitchell col. 16, ll. 27-36).

Finally, Mitchell discloses "causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the

visible area of the application window" (Mitchell Abstract and col. 16, ll. 18-56) **by disclosing that the content is displayed in the visible area of the application window and that the content may be an advertisement. The Examiner notes that the statement that the content is an advertisement is non-functional descriptive material.[1] Moreover, the Examiner notes that the advertisement is rendered in the first pre-defined area only occurs "in response to" determining that the pre-defined area is within the visible area of the application window and is, therefore, a conditional limitation.[2]**

Mitchell does not appear to ***explicitly*** disclose that the determination of whether the first and second pre-defined areas are within the visible area is "by comparing coordinates of the first and second pre-defined areas with coordinates of the application window" or "causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window."

However, Koeppel discloses an advertising system that "determines whether a target component is actually viewable by a user" (Koeppel ¶ 84) that compares the coordinate information of the window and the component to make this determination. (Koeppel ¶¶ 87-98). Thus, Koeppel

[1] The PTAB has provided guidance in decisions regarding claims that differ from the prior art based only on NFDM which is *data. See Ex parte Nehls*, 88 USPQ2d 1883, 1889 (BPAI 2008) (precedential) ("[T]he nature of the information being manipulated does not lend patentability to an otherwise unpatentable computer-implemented product or process."); *Ex parte Mathias*, 84 USPQ2d 1276, 1279 (BPAI 2005) (informative) ("[N]onfunctional descriptive material cannot lend patentability to an invention that would have otherwise been anticipated by the prior art."), *aff'd*, 191 Fed. Appx. 959 (Fed. Cir. 2006) (Rule 36); *Ex parte Curry*, 84 USPQ2d 1272, 1274 (BPAI 2005) (informative) ("Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious."), *aff'd*, No. 06-1003 (Fed. Cir. June 12, 2006) (Rule 36).

[2] *See Ex parte Schulhauser*, 2013-00784712 (PTAB 2016) (precedential) where the board held that when method steps are to be carried out only upon the occurrence of a condition precedent, the broadest reasonable interpretation holds that those steps are not required to be performed. (Op. 7). *See, e.g., Ex parte Arndt* (PTAB 2018) (App. S.N. 14/095,735 at 4; *Ex parte Heil* (PTAB 2018) (App. S.N. 12/512,669), at 6; *Ex parte Frost* (PTAB 2018) (App. S.N. 12/785,052) at 7; *Ex parte Dawson* (PTAB 2018) (App. S.N. 12/103,472) at 6; and *Ex parte Candelore* (PTAB 2017) (App. S.N. 14/281,158) at 5 (supporting the interpretation that "in response to" limitations are conditional).

discloses that the view-ability determination is "by comparing coordinates of the first and second pre-defined areas with coordinates of the application window."

Mitchell and Koeppel are analogous art because they are from the "*same field of endeavor,*" namely that of monitoring content within a web browser.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell and Koeppel before him or her to modify the coordinate based determination of viability of Mitchell to include the specific algorithm of Koeppel for this determination.

The motivation for doing so would have been that of simple substitution. See *KSR Int'l Co v. Teleflex Inc.,* 550 US 398, 82 USPQ2d 1385, 1396 (U.S. 2007) and MPEP § 2143(B). Mitchell differs from the claimed invention by including a generic coordinate based method for making the view-ability determination in place of the specifically claimed method. Further, Koeppel teaches that the specifically claimed method of comparing coordinates was well known in the art. One of ordinary skill in the art could have predictably substituted the specific method of Koeppel for the generic method of Mitchell because both merely use coordinates to determine if data is viewable.

The combination of Mitchell and Koeppel does not appear to ***explicitly*** disclose "causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window."

However, Donnelly discloses a system that determines whether a pre-defined area in a data model is within a predefined distance outside of the viewpoint by determining if the area is within cube 400. (Donnelly col. 5, l. 29-col. 6, l. 31 and Fig. 4B). Further, Donnelly discloses that when the data is within the cube 400 and outside the viewpoint, the data is pre-rendered. (Donnelly col. 5, l. 29-col. 6, l. 31).

One of ordinary skill in the art would have recognized that when Donnelly was combined with Mitchell and Koeppel, that the pre-rendering method of Donnelly would be applied to the web browser and advertisements of Mitchell and Koeppel. Therefore, the combination of Mitchell, Koeppel, and Donnelly at least teaches and/or suggests the claimed limitations "whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window" and "causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window," rendering them obvious.

Mitchell, Koeppel, and Donnelly are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, and Donnelly before him or her to modify the advertisement display of Mitchell and Koeppel to include the pre-rendering step of Donnelly.

The motivation for doing so would have been to reduce the time spent rendering the data, resulting in the advertisement loading faster when the user scrolls or resizes the window to display the advertisement in the second predefined area.

Regarding **claim 66**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein web page the code comprises code embedded in the web page" (Mitchell col. 11, ll. 26-28) **wherein the web page comprises JavaScript code embedded in the web page.**

Regarding **claim 67**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein after determining that a pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the web page" (Mitchell col. 12, ll. 23-59, *see also* Donnelly col. 5, l. 29-col. 6, l. 31) **by disclosing that after the system determines to render a content area, a signal is sent to the server to download the content.**

Regarding **claim 68**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "determining, by the code and for each pre-defined area that is at least partially visible within the visible area of the application window, a percentage of the respective pre-defined area that is at least partially within the visible area of the application window" (Koeppel ¶¶ 151-152) **by determining the proportional calculations for each component.**

Regarding **claim 69**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein determining that the first pre-defined area of the web page is at least partially within the visible area of the application window comprises: determining page coordinates of the first pre-defined area" (Koeppel ¶ 86) **by determining the coordinates of target component 978.** Further, the combination of Mitchell, Koeppel, and Donnelly discloses "determining the coordinates of the application window" (Koeppel ¶ 84) **by collecting the coordinates of the browser**

window. Finally, the combination of Mitchell, Koeppel, and Donnelly discloses "determining that the page coordinates of the first pre-defined area are at least partially within the determined coordinates of the application window" (Koeppel ¶ 86) **by determining whether the component is viewable.**

Regarding **claim 70**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein causing the advertisement to be rendered in one of the pre-defined areas of the web page comprises retrieving, by the code, one or more content files and rendering the one or more content files in the one of the pre-defined area of the content page." (Mitchell col. 12, ll. 43-50).

Regarding **claim 71**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "collecting, by the code, data from the application window, the data comprising one or more of: how long each advertisement rendered in a pre-defined area of the web page is within the visible area of the application window; an identifier of each advertisement rendered in a pre-defined area of the web page; the particular pre-defined area of the web page in which each advertisement was rendered; and ***a list of other content already rendered on the content page***" (Mitchell col. 13, ll. 18-44) **where rendering each content item in priority order requires the system to obtain a list of higher priority content, and thus, the previously rendered content, before any piece of content can itself be rendered.**

Regarding **claim 72**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell,

Koeppel, and Donnelly discloses "wherein the code determines that a pre-defined area of the web page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the particular pre-defined area of the web page." (Mitchell col. 16, ll. 18-56).

Regarding **claim 74**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "further comprising billing for display of an advertisement rendered in a pre-defined area of a web page as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window" (Koeppel ¶ 21) **by disclosing that it is well-known to bill only when the content was "actually in-view to the users browsing the web page."**

Regarding **claim 75**, Mitchell discloses a method comprising "determining, by code executed by a computing system, whether a pre-defined area in a web page is within a pre-defined distance outside of the visible area of the application window" (Mitchell col. 8, ll. 48-53, *see also* col. 16, ll. 43-45) **by disclosing that there may be multiple "portions" into which content is inserted and by determining that the second predefined area is within the pre-defined distance of 0 outside of the visible area.**

Additionally, Mitchell discloses that the coordinates of each item is used to determine the areas of content. (Mitchell col. 16, ll. 27-36).

Further, Mitchell discloses "then, by code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing sy[s]tem" (Mitchell Abstract, col. 12, ll. 23-59) **by disclosing that after the system determines to render a content area, a signal is sent to the server to download the content and that the content may be an**

advertisement. The Examiner notes that the statement that the content is an advertisement is non-functional descriptive material.[3]

Finally, Mitchell discloses "by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page." (Mitchell col. 16, ll. 18-56).

Mitchell does not appear to ***explicitly*** disclose that the determination of whether the first and second pre-defined areas are within the visible area is "by comparing coordinates of the pre-defined area with coordinates of the application window" or "by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-defined distance outside of the visible area of the application window."

However, Koeppel discloses an advertising system that "determines whether a target component is actually viewable by a user" (Koeppel ¶ 84) that compares the coordinate information of the window and the component to make this determination. (Koeppel ¶¶ 87-98). Thus, Koeppel discloses that the view-ability determination is "by comparing coordinates of the pre-defined area with coordinates of the application window."

Mitchell and Koeppel are analogous art because they are from the "*same field of endeavor,*" namely that of monitoring content within a web browser.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell and Koeppel before him or her to modify the coordinate based determination of viability of Mitchell to include the specific algorithm of Koeppel for this determination.

The motivation for doing so would have been that of simple substitution. See *KSR Int'l Co v. Teleflex Inc.,* 550 US 398, 82 USPQ2d 1385, 1396 (U.S. 2007) and MPEP § 2143(B). Mitchell differs from the claimed invention by including a generic coordinate based method for making the view-ability determination in place of the specifically claimed method. Further, Koeppel teaches that the specifically

[3] See n.1, *supra.*

claimed method of comparing coordinates was well known in the art. One of ordinary skill in the art could have predictably substituted the specific method of Koeppel for the generic method of Mitchell because both merely use coordinates to determine if data is viewable.

The combination of Mitchell and Koeppel does not appear to ***explicitly*** disclose "by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-defined distance outside of the visible area of the application window."

However, Donnelly discloses a system that determines whether a pre-defined area in a data model is within a predefined distance outside of the viewpoint by determining if the area is within cube 400. (Donnelly col. 5, l. 29-col. 6, l. 31 and Fig. 4B). Further, Donnelly discloses that when the data is within the cube 400 and outside the viewpoint, the data is pre-rendered. (Donnelly col. 5, l. 29-col. 6, l. 31).

One of ordinary skill in the art would have recognized that when Donnelly was combined with Mitchell and Koeppel, that the pre-rendering method of Donnelly would be applied to the web browser and advertisements of Mitchell and Koeppel. Therefore, the combination of Mitchell, Koeppel, and Donnelly at least teaches and/or suggests the claimed limitations "determining, by code executed by a computing system, whether a pre-defined area in a web page is within a pre-defined distance outside of the visible area of the application window" and "by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-defined distance outside of the visible area of the application window," rendering them obvious.

The Examiner notes that the advertisement is rendered in the first pre-defined area only when it has been determined that the pre-defined area is within the visible area of the application window and is, therefore, a conditional limitation.[4]

Mitchell, Koeppel, and Donnelly are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, and Donnelly before him or her to modify the advertisement display of Mitchell and Koeppel to include the pre-rendering step of Donnelly.

The motivation for doing so would have been to reduce the time spent rendering the data, resulting in the advertisement loading faster when the user scrolls or resizes the window to display the advertisement in the second predefined area.

Regarding **claim 76**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 75 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein the pre-defined area of the web page was specified prior to the web page being rendered on the computing system." (Mitchell col. 13, ll. 18-44).

Regarding **claim 78**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 75 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein the rendering of the advertisement in the pre-defined area is billed only if the pre-defined area with the rendered advertisement is scrolled into the visible area of the application window" (Koeppel ¶ 21) **by disclosing that it is well-known to bill only when the content**

[4] See n.2, *supra.*

was "actually in-view to the users browsing the web page." The Examiner notes that the billing occurs "only if" the pre-defined area is viewed and is, therefore, a conditional limitation.[5]

Regarding **claim 84**, Mitchell discloses a method comprising "determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device" (Mitchell col. 8, ll. 54-61) **by disclosing that the system determines "additional content 72" can be displayed in "additional content display area 62;" or in other words, it determines whether additional content display area 62 is within the visible area of the application window.**

Additionally, Mitchell discloses "causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window" (Mitchell Abstract and col. 16, ll. 18-56) **by disclosing that the content is displayed in the visible area of the application window and that the content may be an advertisement. The Examiner notes that the statement that the content is an advertisement is non-functional descriptive material.**[6] **Moreover, the Examiner notes that the advertisement is rendered in the first pre-defined area only occurs "in response to" determining that the pre-defined area is within the visible area of the application window and is, therefore, a conditional limitation.**[7]

Further, Mitchell discloses "determining by code executed by the computing system whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window" (Mitchell col. 8, ll. 48-53, *see also* col. 16, ll. 43-45) **by disclosing that there may be multiple "portions" into which content is inserted and by determining that the second predefined area is within the pre-defined distance of 0 outside of the visible area.**

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[5] See n.2, *supra.*
[6] See n.1, *supra.*
[7] See n.2, *supra.*

Further, Mitchell discloses that the coordinates of each item is used to determine the areas of content. (Mitchell col. 16, ll. 27-36).

Finally, Mitchell discloses "then determining whether a third pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window" (Mitchell col. 8, ll. 48-53, *see also* col. 16, ll. 43-45) **by disclosing that there may be multiple "portions" into which content is inserted and by determining that the second predefined area is within the pre-defined distance of 0 outside of the visible area.**

Mitchell does not appear to ***explicitly*** disclose that the determination of whether the first and second pre-defined areas are within the visible area is "by comparing coordinates of the second pre-defined areas with coordinates of the application window;" "by comparing coordinates of the third pre-defined areas with coordinates of the application window;" or "causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application" or "causing an advertisement to be rendered in the third pre-defined area of the web page in response to determining that the third pre-defined area is within the pre-defined distance outside of the visible area of the application."

However, Koeppel discloses an advertising system that "determines whether a target component is actually viewable by a user" (Koeppel ¶ 84) that compares the coordinate information of the window and the component to make this determination. (Koeppel ¶¶ 87-98). Thus, Koeppel discloses that the view-ability determinations are "by comparing coordinates of the second pre-defined areas with coordinates of the application window" and "by comparing coordinates of the third pre-defined areas with coordinates of the application window."

Mitchell and Koeppel are analogous art because they are from the "*same field of endeavor,*" namely that of monitoring content within a web browser.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell and Koeppel before him or her to modify the coordinate based determination of viability of Mitchell to include the specific algorithm of Koeppel for this determination.

The motivation for doing so would have been that of simple substitution. See *KSR Int'l Co v. Teleflex Inc.,* 550 US 398, 82 USPQ2d 1385, 1396 (U.S. 2007) and MPEP § 2143(B). Mitchell differs from the claimed invention by including a generic coordinate based method for making the view-ability determination in place of the specifically claimed method. Further, Koeppel teaches that the specifically claimed method of comparing coordinates was well known in the art. One of ordinary skill in the art could have predictably substituted the specific method of Koeppel for the generic method of Mitchell because both merely use coordinates to determine if data is viewable.

The combination of Mitchell and Koeppel does not appear to ***explicitly*** disclose "causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application" or "causing an advertisement to be rendered in the third pre-defined area of the web page in response to determining that the third pre-defined area is within the pre-defined distance outside of the visible area of the application."

However, Donnelly discloses a system that determines whether a pre-defined area in a data model is within a predefined distance outside of the viewpoint by determining if the area is within cube 400. (Donnelly col. 5, l. 29-col. 6, l. 31 and Fig. 4B). Further, Donnelly discloses that when the data is within the cube 400 and outside the viewpoint, the data is pre-rendered. (Donnelly col. 5, l. 29-col. 6, l. 31).

One of ordinary skill in the art would have recognized that when Donnelly was combined with Mitchell and Koeppel, that the pre-rendering method of Donnelly would be applied to the web browser

and advertisements of Mitchell and Koeppel. Therefore, the combination of Mitchell, Koeppel, and Donnelly at least teaches and/or suggests the claimed limitations "determining by code executed by the computing system whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the second pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application" and "then determining whether a third pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the third pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the third pre-defined area of the web page in response to determining that the third pre-defined area is within the pre-defined distance outside of the visible area of the application," rendering them obvious.

The Examiner notes that the advertisement is rendered in the pre-defined areas occurs "in response to" determining that the pre-defined areas is within the visible area of the application window and are, therefore, conditional limitations.[8]

Mitchell, Koeppel, and Donnelly are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, and Donnelly before him or her to modify the advertisement display of Mitchell and Koeppel to include the pre-rendering step of Donnelly.

The motivation for doing so would have been to reduce the time spent rendering the data, resulting in the advertisement loading faster when the user scrolls or resizes the window to display the advertisement in the second predefined area.

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[8] See n.2, *supra.*

Regarding **claim 92**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 75 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein content placement fee structures are based on whether the pre-defined area in which an advertisement has been rendered has been at least partially within the visible area" (Koeppel ¶ 21) **by disclosing that it is well-known to bill only when the content was "actually in-view to the users browsing the web page."**

Regarding **claim 93**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "billing for display of an advertisement rendered in a pre-defined area of a webpage as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window" (Koeppel ¶ 21) **by disclosing that it is well-known to bill only when the content was "actually in-view to the users browsing the web page." Additionally, the Examiner notes that the billing occurs "only when" the advertisement was at least partially visible and is, therefore, a conditional limitation.**[9]

Regarding **claim 94**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 75 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein content fee structures applied to a particular pre-defined area are applied based at least in part on whether the pre- defined area has been at least partially within a visible area of the application window" (Koeppel ¶ 21) **by disclosing that it is well-known to bill only when the content was "actually in-view to the users browsing the web page." Additionally, the**

[9] See n.2, *supra.*

Examiner notes that the billing occurs based on "whether" the advertisement was at least partially visible and is, therefore, a conditional limitation.[10]

Regarding **claim 95**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "wherein if a pre-defined area in which an advertisement has been rendered has been determined to be within the visible area of the application window and subsequently determined to be outside the visible area, the computing system doing one or more of the following: ***causing an advertisement previously-rendered in the pre-defined area to be removed; transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window***; transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window; causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible" (Mitchell col. 9, l. 60-col. 10, l. 6) **by removing an advertisement and transmitting an indication that the pre-defined area is no longer visible when the user scrolls re re-sized the browser window. Additionally, the Examiner notes that the advertisement is removed and the indication is transmitted "if" a pre-defined area in which an advertisement has been rendered has been determined to be within the visible area and is, therefore, a conditional limitation.**[11]

Claims 65 and 73 is rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Mitchell in view of Koeppel and Donnelly as applied to claim 23 above, and further in view of Cohen et

[10] See n.2, *supra*.
[11] See n.2, *supra*.

al., US Publication 2008/0306794 (*hereinafter* Cohen), as cited on the Information Disclosure Statement dated September 23, 2016.

Regarding **claim 65**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly discloses "by the code, after an advertisement has been rendered in a pre-defined area of the web page that is within the visible area of the application window, causing the rendered advertisement that has been within the visible area of the application window to be removed" (Mitchell col. 9, l. 60-col. 10, l. 6) **by removing an advertisement when the user scrolls or re-sizes the browser window.** Further, the combination of Mitchell, Koeppel, and Donnelly discloses "causing the rendered advertisement to be replaced with new advertising content in the pre-defined area." (Mitchell col. 10, ll. 4-6).

The combination of Mitchell, Koeppel, and Donnelly does not appear to explicitly disclose "causing a counter to stop counting an amount of time that the rendered advertisement was visible."

However, Cohen discloses an advertisement placement method that starts a counter when a rendered advertisement was visible and "causing a counter to stop counting an amount of time that the rendered advertisement was visible." (Cohen ¶¶ 162, 196).

Mitchell, Koeppel, Donnelly, and Cohen are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, Donnelly, and Cohen before him or her to modify the advertising system of Mitchell, Koeppel, and Donnelly to include the timer of Cohen.

The motivation for doing so would have been to provide advertisers with feedback as to how good or bad an advertisement location is. (Cohen ¶ 162).

Regarding **claim 73**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 23 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly does not appear to explicitly disclose "determining, by the code, an amount of time, if any, that each advertisement is at least partially visible on the display device."

However, Cohen discloses an advertisement placement method that starts a counter when a rendered advertisement was visible and "causing a counter to stop counting an amount of time that the rendered advertisement was visible" (Cohen ¶¶ 162, 196) and, thus, includes the step of "determining, by the code, an amount of time, if any, that each advertisement is at least partially visible on the display device." **Additionally, the Examiner notes that the determining occurs "if any" time exists and is, therefore, a conditional limitation.**[12]

Mitchell, Koeppel, Donnelly, and Cohen are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, Donnelly, and Cohen before him or her to modify the advertising system of Mitchell, Koeppel, and Donnelly to include the timer of Cohen.

The motivation for doing so would have been to provide advertisers with feedback as to how good or bad an advertisement location is. (Cohen ¶ 162).

Claims 77 and 79 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Mitchell in view of Koeppel and Donnelly as applied to claim 75 above, and further in view of Perlmutter, US Publication 2005/0108095, as cited on the Notice of References Cited dated July 19, 2011.

[12] See n.2, *supra*.

Regarding **claim 77**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 75 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, and Donnelly does not appear to explicitly disclose "causing an advertisement previously-rendered in the pre-defined area and that has been scrolled into the visible area of the application window to be removed; and causing an advertisement previously-rendered in the pre-defined area to be replaced with new advertising content in the pre-defined area."

However, Perlmutter discloses an advertising placement method including the steps of "causing an advertisement previously-rendered in the pre-defined area and that has been scrolled into the visible area of the application window to be removed; and causing an advertisement previously-rendered in the pre-defined area to be replaced with new advertising content in the pre-defined area" (Perlmutter ¶ 2) **by disclosing that it is well-known in the art to replace an advertisement after it has already been displayed when a user returns to the web page.**

Mitchell, Koeppel, Donnelly, and Perlmutter are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering systems.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, Donnelly, and Perlmutter before him or her to modify the advertisement of Mitchell, Koeppel, and Donnelly to include the replacement of Perlmutter.

The motivation for doing so would have been that of applying a known technique to a known device. See *KSR Int'l Co. v. Teleflex Inc.,* 550 US 398, 82 USPQ2d 1385, 1396 (U.S. 2007) and MPEP § 2143(D). The combination of Mitchell, Koeppel, and Donnelly teaches the "base device" for displaying advertisements. Further, Perlmutter teaches the "known technique" for replacing advertisements that is applicable to the base device of Mitchell, Koeppel, and Donnelly. One of ordinary skill in the art would

have recognized that applying the known technique would have yielded predictable results and resulted in an improved system.

Regarding **claim 79**, the combination of Mitchell, Koeppel, Donnelly, and Perlmutter discloses the limitations contained in parent claim 77 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, Donnelly, and Perlmutter discloses "further comprising billing for rendering the new advertising content in the pre-defined area if the new advertising content as rendered is at least partially within the visible area of the application window" (Koeppel ¶ 21) **by disclosing that it is well-known to bill only when the content was "actually in-view to the users browsing the web page." Additionally, the Examiner notes that the billing occurs "if" the advertisement was at least partially visible and is, therefore, a conditional limitation.**[13]

Claims 86, 89, and 90 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Mitchell in view of Cohen.

Regarding **claim 86**, Mitchell discloses the limitations contained in parent claim 85 for the reasons discussed above. In addition, Mitchell does not appear to explicitly disclose "Tracking the amount of time that the rendered downloaded content is at least partially within the visible area."

However, Cohen discloses an advertisement placement method that starts a counter when a rendered advertisement was visible and "causing a counter to stop counting an amount of time that the rendered advertisement was visible" (Cohen ¶¶ 162, 196) and, thus, includes the step of "Tracking the amount of time that the rendered downloaded content is at least partially within the visible area."

[13] See n.2, *supra.*

Mitchell and Cohen are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell and Cohen before him or her to modify the advertising system of Mitchell to include the timer of Cohen.

The motivation for doing so would have been to provide advertisers with feedback as to how good or bad an advertisement location is. (Cohen ¶ 162).

Regarding **claim 89**, Mitchell discloses the limitations contained in parent claim 85 for the reasons discussed above. In addition, Mitchell does not appear to explicitly disclose "wherein if a pre-defined area in the web page in which an advertisement has been rendered is scrolled out of the visible area of the application window a timer tracking the time the pre-defined area was in the visible area stops."

However, Cohen discloses an advertisement placement method that starts a counter when a rendered advertisement was visible and "causing a counter to stop counting an amount of time that the rendered advertisement was visible" (Cohen ¶¶ 162, 196) and, thus, includes the step of "wherein if a pre-defined area in the web page in which an advertisement has been rendered is scrolled out of the visible area of the application window a timer tracking the time the pre-defined area was in the visible area stops." **Additionally, the Examiner notes that the timer stops occurs only "if" the pre-defined area is scrolled out of the visible area and is, therefore, a conditional limitation.**[14]

Mitchell and Cohen are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

[14] See n.2, *supra.*

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell and Cohen before him or her to modify the advertising system of Mitchell to include the timer of Cohen.

The motivation for doing so would have been to provide advertisers with feedback as to how good or bad an advertisement location is. (Cohen ¶ 162).

Regarding **claim 90**, Mitchell discloses the limitations contained in parent claim 85 for the reasons discussed above. In addition, Mitchell does not appear to explicitly disclose "wherein if the pre-defined area in the web page which has been scrolled out of the visible area is scrolled back into the visible area the timer is turned back on."

However, Cohen discloses an advertisement placement method that starts a counter when a rendered advertisement was visible and "causing a counter to stop counting an amount of time that the rendered advertisement was visible" (Cohen ¶¶ 162, 196) and, thus, includes the step of "wherein if the pre-defined area in the web page which has been scrolled out of the visible area is scrolled back into the visible area the timer is turned back on." **Additionally, the Examiner notes that the timer is restarted occurs only "if" the pre-defined area is scrolled out of and back into the visible area and is, therefore, a conditional limitation.**[15]

Mitchell and Cohen are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell and Cohen before him or her to modify the advertising system of Mitchell to include the timer of Cohen.

[15] See n.2, *supra.*

The motivation for doing so would have been to provide advertisers with feedback as to how good or bad an advertisement location is. (Cohen ¶ 162).

Claim 88 is rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Mitchell in view of Wills et al., US Publication 2009/0204485 (*hereinafter* Wills), as cited on the Information Disclosure Statement dated September 23, 2016.

Regarding **claim 88**, Mitchell discloses the limitations contained in parent claim 85 for the reasons discussed above. In addition, Mitchell does not appear to explicitly disclose "wherein a content publisher has specified a pre-defined area on the web page which, when its coordinates correspond in a pre-defined manner with coordinates of the computing system's browser dimension, triggers content downloading from servers and rendering at the pre-defined area of the web page."

However, Wills discloses an advertisement display system including the step of "wherein a content publisher has specified a pre-defined area on the web page which, when its coordinates correspond in a pre-defined manner with coordinates of the computing system's browser dimension, triggers content downloading from servers and rendering at the pre-defined area of the web page." (Wills ¶ 9). **Additionally, the Examiner notes that the content downloading occurs "when" the web page corresponds in a pre-defined manner with coordinates of the computer's browser and is, therefore, a conditional limitation.**[16]

Mitchell and Wills are analogous art because they are from the "*same field of endeavor,*" namely that of advertising systems.

[16] See n.2, *supra.*

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell and Wills before him or her to modify the advertisement placement system of Mitchell to include the publisher specifications of Wills.

The motivation for doing so would have been that of applying a known technique to a known device. See *KSR Int'l Co. v. Teleflex Inc.,* 550 US 398, 82 USPQ2d 1385, 1396 (U.S. 2007) and MPEP § 2143(D). Mitchell teaches the "base device" for displaying an advertisement. Further, Wills teaches the "known technique" for allowing the publisher to provide advertisement information that is applicable to the base device of Mitchell. One of ordinary skill in the art would have recognized that applying the known technique would have yielded predictable results and resulted in an improved system.

Claim91 rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Mitchell in view of Koeppel, Donnelly, and Perlmutter as applied to claim 77 above, and further in view of Cohen.

Regarding **claim 91**, the combination of Mitchell, Koeppel, and Donnelly discloses the limitations contained in parent claim 77 for the reasons discussed above. In addition, the combination of Mitchell, Koeppel, Donnelly, and Perlmutter does not appear to explicitly disclose "wherein a timer tracks the amount of time the new content is at least partially visible in the visible area."

However, Cohen discloses an advertisement placement method that starts a counter when a rendered advertisement was visible and "causing a counter to stop counting an amount of time that the rendered advertisement was visible" (Cohen ¶¶ 162, 196) and, thus, includes the step of "wherein a timer tracks the amount of time the new content is at least partially visible in the visible area."

Mitchell, Koeppel, Donnelly, Perlmutter, and Cohen are analogous art because they are from the "*same field of endeavor,*" namely that of data rendering.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, Donnelly, Perlmutter, and Cohen before him or her to modify the advertising system of Mitchell, Koeppel, Donnelly, and Perlmutter to include the timer of Cohen.

The motivation for doing so would have been to provide advertisers with feedback as to how good or bad an advertisement location is. (Cohen ¶ 162).

Response to Arguments

Applicant's arguments file August 8, 2018 with respect to the rejection of claims 23 and 65-79 under 35 U.S.C. § 103(a) have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

Merriman et al., US Publication 2002/0099600, System and method for allowing publishers to provide advertisement placement information.

Fentron et al., US Publication 2002/0194194, System and method for providing placement information in the publishing process.

Good et al., US Patent 7,576,756, System and method for removing displayed objects.

King et al., US Publication 2010/0066643, System and method for placing content based on available display space.

Pen, US Patent 8,396,745, System and method for expanding the display area of advertisements.

Clark, US Patent 7,934,166, System and method for determining how far outside of the display area an object is located.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. § 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW R DYER whose telephone number is (571)270-3790. The examiner can normally be reached on Monday-Friday 7:30-3:30.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at http://www.uspto.gov/interviewpractice.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kavita Padmanabhan can be reached on 571-272-8352. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ANDREW R DYER/
Primary Examiner, Art Unit 2176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 12/316,781	Examiner: Joseph, Shawn S.
Inventors(s): Brad Krassner, et al.	Art Unit: 2176
Filed: 12/16/2008	Confirmation No.: 2529
Title: CONTENT RENDERING CONTROL SYSTEM AND METHOD	Attorney Reference No.: RV E1 US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION

Dear Sir:

In response to the Non-Final Office Action mailed on 02/07/2019, Applicant submits the present Response to Non-Final Office Action and asks that the Examiner please consider the following remarks:

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 11 of this paper.

A Conclusion is provided on page 21 of this paper.

REMARKS

Applicant thanks the Examiner for his efforts in preparing the Office Action. Applicant respectfully traverses each of the grounds of the Examiner's objections and rejections but nonetheless and without prejudice responds with the amendments of this Response. Applicant preserves the right to pursue any subject matter pending prior to the present traversals and amendments. No new matter has been added in the present amendments.

The following remarks are responsive to the Office Action dated February 7, 2019.

Claims 23 and 65-83 are rejected.

Claims 23, 65-79 have been amended. Claims 80-83 have been cancelled. Claims 84-95 are new.

Claim Rejections - 35 USC § 103

Claims 23,65-66,68,70,72,74 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel").

Claims 67, 69 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel"), and further in view of Takeshima et al., U.S. Pub. No. 2008/0092078 A1 (hereinafter, "Takeshima").

Claims 71 and 73 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel"), and further in view of Cohen et al., (IDS) U.S. Pub No. 2008/0306794A1 (hereinafter, "Cohen").

Claims 75-77, 79-83 are rejected under 35 U.S.C. 103 as being unpatentable over Dutta et al., U.S. Pub US 2004/0205651A1 (hereinafter, "Dutta"), in view of Koeppel et al., U.S. Pub No US 2005/0177401A1 (hereinafter, "Koeppel").

Claims 78 is rejected under 35 U.S.C. 103 as being unpatentable over Dutta et al., U.S. Pub US 2004/0205651A1 (hereinafter, "Dutta"), in view of and further in view of Takeshima et al., U.S. Pub No 2008/0092078 A1 (hereinafter, "Takeshima").

Claim 23

Claim 23 was rejected over Mitchell in view of Koeppel. Applicant respectfully traverses this and all other rejections of the Office Action, but in the interests of prosecution efficiency has amended Claim 23 to recite (in redline form):

> 23. A method comprising:
>
> determining, by code executed by a computing system, whether a first pre-defined area in~~of~~ a web page~~content page~~ is ~~either~~ at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page ~~or~~ is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined area<u>s</u> with coordinates of the application window;
>
> causing an advertisement to be rendered in the first pre-defined area of the web page~~content page~~ in response to determining that the pre-defined area is ~~either~~ at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area~~or~~ is within the pre-defined distance outside of the visible area of the application window.

For purposes of this discussion and for the Examiner's convenience amended claim 23 is presented below in non-redline form:

> 23. A method comprising:
>
> determining, by code executed by a computing system,

> whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;
>
> causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window.

As emphasized above, amended claim 23 refers to "pre-defined areas" "in a web page". Mitchell does not teach any "pre-defined areas" "in a web page".

Mitchell uses the term "web page" inconsistently. On one hand Mitchell uses the term "web page" as is commonly understood in the technology. In keeping with this use of the term, Mitchell identifies the two types of content which Mitchel terms as "primary content" and "additional content". Mitchell frequently describes the "primary content" as the "Web page document 130" (see, col. 11 lines 24 et al.) as is the common technical understanding of the term "web page" and as also used by Mitchell such as at col. 1 lines 12 et al., "World Wide Web (WWW) documents, or Web pages, are widely used for distributing information to a variety of client devices".

However, Mitchell also uses the term "Web page" quite apart from common technical understandings, and as is his right, apparently uses the term "Web page" to refer to the entire space inside a browser screen: "FIG. 7 is a flow diagram illustrating … used by the present invention to selectively display multiple content modules in a Web page based on the available display area and the size of the content modules". (See, e.g., col. 5 lines 4-23, emphasis added). Thus, Mitchell uses the term "web page" interchangeably between two meanings: first, the "primary content" or "Web page document 130" (as is the customary meaning of the term) and as the entire space inside a browser screen as adapted and utilized in Mitchell's disclosure.

Applicant defines its term "web page" as is common in the industry and as described in its specification, such as at paragraph [0057],:

> Referring now to FIG. **2,** an overview of a preferred embodiment of the present invention is shown. The present invention interacts with one or more content page viewer computer systems or other communications devices having a browser application **22, 33, 44** and mm, and communicating via the Internet **88** with the content page computer system **10.** The content page computer system **10** comprises a content page server **12** and file storage device **20** as with the typical Internet client-server model utilizing HTTP. HTTP is a known application protocol that provides users access to content in different formats such as text, graphics, images, sound, video, as well as programs. HTML is a standard page description language which provides basic document formatting and allows the programmer to specify links to other servers and files. Links are specified via a Uniform Resource Locator or URL. Upon specification of a link, the client makes a TCP/IP request to the server and receives information that was specified in that URL (for example another Web page that was formatted according to HTML) in return. The information returned may be generated in whole or in part by a program that executes on the server. Such programs are typically known as Common-Gateway-Interface scripts and can be written using known programming languages or methods that the server supports. A typical Web page is an HTML document with text, "links" that a user may activate (e.g. "click on"), as well as embedded URLs pointing to resources (such as images, video or sound) that the client must fetch to fully render the Web Page in a browser. These resources may not be located on the same server that the HTML document was sent from. …

Accordingly, insofar as applicant understands Mitchell, applicant interprets the Mitchell terms "primary content" or "Web page document 130" as representing a "web page" as used in applicant's current claims and as commonly used in the industry. Mitchell clearly does not teach anything about any pre-defined area of the Mitchell "primary content" or the Mitchell "web page document 130". Accordingly, Mitchell does not teach, and the Examiner has not shown any prior art that teaches, "pre-defined areas in a web page" (as that term is used by applicant) the coordinates of which are compared with the coordinates of an application window to determine whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window; causing an advertisement to be rendered in the first pre-defined area of the web page in response to

determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window. It is respectfully submitted that due to this lack of teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

Furthermore, the Examiner has not shown any prior art teaching or suggestion of determining whether a first pre-defined area in a webpage is at least partially within a visible area of an application window of a computing system and causing an advertisement to be rendered in the first pre-defined area of the webpage in response to determining that the pre-defined area is at least partially within the visible area of the application window. It is respectfully submitted that due to this lack of teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

In addition to the unique elements discussed above, amended claim also requires that the method comprise determining whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the second pre-defined area with coordinates of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window. Mitchell certainly does not teach any method or system of comparing the coordinates of the application window with those of a pre-defined area of the web page outside of the visible area of the application window. Further, Mitchell teaches nothing about whether such a pre-defined area may be "a pre-defined distance" outside the visible area of the application window. Accordingly, it is respectfully submitted that due to these deficiencies in the teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

Koeppel is well discussed in the present prosecution history and it is respectfully submitted that Koeppel, alone or in combination with Mitchell, does not anticipate or render obvious the invention of amended claim 23. It is respectfully submitted that the Examiner has not identified in Koeppel any teach which anticipates or renders obvious the invention

of amended claim 23.

It is respectfully submitted that the Examiner has failed to show any of the above discussed features of amended claim 23 in the prior art and, accordingly, it is also respectfully submitted that amended claim 23 is in condition for allowance.

Certain claims dependent from amended claim 23 are discussed below. Inasmuch as claims 65-74 depend from amended claim 23 which is submitted as being in condition for allowance, as dependent on an allowable claim it is submitted that these claims are also in condition for allowance.

Claim 65

Claim 65 has been amended. No new matter has been added by the amendment.

Amended claim 65 depends from amended claim 23 and requires causing a rendered advertisement that has been within the visible area of the application window to be removed and causing a counter to stop counting an amount of time that the rendered advertisement was visible, and causing the rendered advertisement to be replaced with new advertising content in the pre-defined area.

It is respectfully submitted that the Examiner has not presented any prior art that teaches or suggests the invention of amended claim 65.

Claim 67

Amended claim 67, which amendment also includes no new matter, sets out the method of Claim 23, wherein after determining that a pre-defined area of the webpage is within a pre-defined distance outside of the visible area of the application window a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the webpage.

Support for the amendment to claim 67 is shown in numerous instances in the specification, including in the last ten lines of paragraph [0060].

It is respectfully submitted that the Examiner has not presented any art that teaches or renders amended claim 67 unpatentable.

Claim 68

Amended claim 68 is dependent on claim 23 and further requires determining for each pre-defined area that is at least partially visible within the visible are of the application window, a percentage of the respective pre-defined area that is at least partially within the visible area of the application window.

It is respectfully submitted that the Examiner has not presented any prior art evidence that renders amended claim 68 unpatentable.

Other claims dependent on Claim 23

It is respectfully submitted that all the claims dependent from claim 23 are allowable as depending from an allowable independent claim.

Independent claim 75

Independent claim 75 stands rejected under various prior art references noted above. These rejections are respectfully traversed, but in the interests of prosecution efficiency independent claim 75 has been amended to provide:

> A method comprising:
>
> determining, by code executed by a computing system, whether a pre-defined area in a webpage is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;
>
> then, by code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing system;
>
> by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined

to be within a pre-defined distance outside of the visible area of the application window.

Claim 75 was rejected over various references as set out above. However, for the reasons set out above, which are deemed particularly relevant given the amendments to claim 75, it is respectfully submitted that claim 75 is patentable over the cited art.

Support for the amendments to claim 75 are found throughout the specification and including in the last ten lines of paragraph [0060].

Claim 75 has been amended to respond to the Examiner's rejection, including rejection based on Mitchell and other art, and also in response to the July 17, 2018 decision of the Patent Trial and Appeal Board.

Amended claim 75 now requires the comparing of coordinates, determining distance outside of the visible area, signaling a server, and rendering downloaded material in the pre-defined area in the web page. All of these elements occur with regard to the specified web page and so, it is respectfully submitted, the amended claim overcomes the grounds for the rejection of claim 75 before the Patent Trial and Appeal Board.

Further, the amendments to claim 75 further set the claim apart from the newly cited Mitchell reference. It is respectfully submitted that the Examiner has not presented any instance in Mitchell or other art, nor does Mitchell or any other cited prior art, teach or suggest:

comparing coordinates of the visible area in a web page with the coordinates of a pre-defined area that is outside of the visible area;

determining whether the pre-defined area is a pre-determined distance outside the visible area;

signaling a server whereby in response to the signaling an advertisement is downloaded; and

Duration Media Ex-1085

rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-determined distance outside of the visible are of the application window.

Again, and for the reasons discussed above with reference to amended claim 23, it is respectfully submitted that Mitchell simply doesn't teach these features. Mitchell doesn't address a pre-defined area in a web page, and certainly not a pre-defined area outside the visible area of the application window, nor whether the pre-defined area is a pre-determined distance outside the visible area, nor signaling for, downloading and rendering an advertisement in the pre-defined area.

It is respectfully submitted that the Examiner has not shown any prior art that teaches or suggests the invention of amended claim 75 and it is also respectfully requested that amended claim 75 be allowed.

Inasmuch as amended claim 75 is in condition for allowance, it is respectfully submitted that the claims dependent from claim 75 are also in condition for allowance.

Claim 76

Amended claim 76 requires that the pre-defined area of the web page has been specified prior to the web page being rendered on the computing system. Support for this amendment is found in numerous instances through the specification, including at paragraph [0061].

It is respectfully submitted that none of the cited prior art teaches or renders obvious the invention of claim 76.

Claim 77

Claim 77 speaks to methods applying to an advertisement that has been rendered in a pre-defined area that was determined to be within a pre-defined distance outside the visible area and has been scrolled into the visible area. On this basis alone, and certainly among others of the claim, it is respectfully submitted that the claim is allowable over the prior art.

Claim 78

Claim 78 requires that rendering of the advertisement in the pre-defined area is billed only if the pre-defined area with the rendered advertisement is scrolled into the visible area of the application window.

Support for claim 78 is shown in the specification, including at paragraph [0009].

It is respectfully submitted that the method of claim 78 is neither taught nor rendered obvious by any of the art of record.

Independent claim 84

Independent claim 84 is new and does not introduce any new matter into the application.

Claim 84 speaks to a first, second and third pre-defined area in a web page and possibly rendering an advertisement into the first pre-defined area, possibly rendering an advertisement in the second pre-defined area if it is determined that the second pre-defined area is within a pre-defined distance outside a visible area, and then determining whether a third pre-determined area is within a pre-defined distance outside the visible area and, if it is, rendering an advertisement into the third pre-defined area.

It is respectfully submitted that claim 84 is allowable over the art of record for the reasons set forth with regard to the other independent claim of this Response and also for the reason that none of the cited art sets forth or suggests the sequence set forth in claim 84.

It is respectfully submitted that all of the dependent claims of this Response are allowable as depending from allowable independent claims.

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to contact Wayne Joens at (650) 906-6200 at the Examiner's convenience to further the allowance of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment, to Deposit Account 50-5550.

Respectfully submitted,

Dated:08/07/2019

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AMENDMENTS TO CLAIMS

For the convenience of the Examiner, all pending claims of the present Application are shown below whether or not an amendment has been made.

1. - 22. (Canceled)

23. (Currently Amended) A method comprising:

determining, by code executed by a computing system, whether a first pre-defined area in~~of~~ a web page~~content page~~ is ~~either~~ at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page ~~or~~ is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;

causing an advertisement to be rendered in the first pre-defined area of the web page~~content page~~ in response to determining that the pre-defined area is ~~either~~ at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area~~or~~ is within the pre-defined distance outside of the visible area of the application window.

24. - 64. (Canceled)

65. (Currently Amended) The method of Claim 23, further comprising:

by the code, ~~determining,~~ after an~~the~~ advertisement has been rendered in a~~the~~ pre-defined area of the web page that is within~~content page, that the pre-defined area is no longer within~~ the visible area of the application window, ~~and in response, taking one or more of the following actions:~~

causing the rendered advertisement that has been within the visible area of the

Duration Media Ex-1085

application window to be removed and causing a counter to stop counting an amount of time that the rendered advertisement was visible, and;

~~sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;~~

~~sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;~~

causing the rendered advertisement to be replaced with new advertising content in the pre-defined area. ~~content; and causing a counter to stop counting an amount of time that the rendered~~ advertisement was visible.

66. (Currently Amended) The method of Claim 23, wherein ~~the content page comprises a webpage~~web page ~~and~~ the code comprises code embedded in the ~~webpage~~web page.

67. (Currently Amended) The method of Claim 23, wherein after determining that a~~the~~ pre-defined area of the web page~~content page~~ is ~~either at least partially within a visible area of a application window on a display device or is~~ within a pre-defined distance outside of the visible area of the application window a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the web page.~~comprises determining, by the code, a scrolling position of the application window on the display device.~~

68. (Currently Amended) The method of Claim 23, further comprising determining, by the code and for each pre-defined area that is at least partially visible within the visible area of the application window, a percentage of the respective pre-defined area that is at least partially within the visible area of the application window.

69. (Currently Amended) The method of Claim 23, wherein determining that the first pre-defined area of the web page~~content page~~ is at least partially within the visible area of

the application window comprises:

determining page coordinates of the first pre-defined area;

determining ~~a scrolling position and~~ the coordinates of the application window; and

determining that the page coordinates of the first pre-defined area are at least partially within the determined ~~scrolling position and the~~ coordinates of the application window.

70. (Currently Amended) The method of Claim 23, wherein causing the advertisement to be rendered in one of the pre-defined areas of the web page~~content page~~ comprises retrieving, by the code, one or more content files and rendering the one or more content files in the one of the pre-defined area of the content page.

71. (Currently Amended) The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:

how long each advertisement rendered in a pre-defined area of the web page is within the visible area of the application window;

an identifier of each advertisement rendered in a pre-defined area of the web page;

the particular pre-defined area of the web page in which each advertisement was rendered; and

~~an operating system running on the display device; a type of a browser;~~

~~a version of a browser; and~~

a list of other content already rendered on the content page.

72. (Currently Amended) The method of Claim 23, wherein the code determines that a~~the~~ pre-defined area of the web page~~content page~~ is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the particular pre-defined area of the web page~~content page~~.

73. (Currently Amended) The method of Claim 23, further comprising determining,

Duration Media Ex-1085

by the code, an amount of time, if any, that eachthe advertisement is at least partially visible on the display device.

74. (Currently Amended) The method of Claim 23, further comprising billing for display of an advertisement rendered in a pre-defined area of a web page as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window. ~~wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window and scrolling position coordinates of the browser window.~~

75. (Currently Amended Previously Presented) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area in a web page~~of a content page is either at least partially within a visible area of an application window on a display device or~~ is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

then, by ~~the~~ code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing sytem;

by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-defined distance outside of the visible area of the application window. ~~taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and by the code, taking a second action in response to determining that the pre-defined area is not at least partially within thevisible area of the application window,~~

~~the second action being different from the first action.~~

76. (Currently Amended) The method of Claim 75, wherein the pre-defined area of the web page was specified prior to the web page being rendered on the computing system. ~~first action comprises one or more of the following:~~

~~causing an advertisement to be rendered on the content page;~~

77. (Currently Amended) The method of Claim 75, further comprising:~~wherein the second action comprises one or more of the following:~~

causing an advertisement previously-rendered in the pre-defined area and that has been scrolled into the visible area of the application window to be removed; and

~~transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;~~

~~transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;~~

causing an advertisement previously-rendered in the pre-defined area to be replaced with new advertising content in the pre-defined area.~~; and~~

~~causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.~~

78. (Currently Amended) The method of Claim 75, wherein the rendering of the advertisement in the pre-defined area is billed only if the pre-defined area with the rendered advertisement is scrolled into the visible area of the application window.~~determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible are of the application window comprises:~~

~~determining page coordinates of the pre-defined area;determining a scrolling position and coordinates of the application window; anddetermining that the page coordinates of the pre-defined area are within thedetermined scrolling position and coordinates of the browser win~~

79. (Currently Amended) The method of Claim 77~~5~~, further comprising billing for rendering the new advertising content in the pre-defined area if the new advertising content as rendered is at least partially within the visible area of the application window.~~transmitting data comprising one or more of:~~

~~a time period in which the pre-defined area is at least partially within the visible area of the application window;~~

~~a time period in which the application window is the primary window open on the display device;a proportional extent to which the area on the pre-defined area is at least partiallywithin the visible area of the application window;~~

~~an indication of whether the application window is obstructed from view on the display device by another application window;~~

~~an identification of the viewer; a geographic location;~~

~~a type of the application;~~

~~an identification of an operating system of the display device; a view event duration;~~

~~a view event time;~~

~~a content rendering frequency; a content rendering reach;~~

~~a viewer click activity with respect to the one or more content files rendered in the pre-defined area;~~

~~dimension of the visible area; dimension of the application window;~~

~~a scrolling position of the application window; and an in-focus status of the application window~~

80. (Cancelled)

81. (Cancelled)

82. (Cancelled)

83. (Cancelled)

84. (New) A method comprising:

determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window;

determining by code executed by the computing system whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the second pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application;

then determining whether a third pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the third pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the third pre-defined area of the web page in response to determining that the third pre-defined area is within the pre-defined distance outside of the visible area of the application.

85. (New) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area in a web page is at least partially within a visible area of an application window on a display device;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application;

Duration Media Ex-1085

after transmitting the indication, downloading content from a computing system; and

rendering the downloaded content in the pre-defined area of the application window on the display device.

86. (New) The method of claim 85, further comprising:
Tracking the amount of time that the rendered downloaded content is at least partially within the visible area.

87. (New) The method of claim 85 wherein each pre-defined area has a tag associated with the pre-defined area. [0010]

88. (New) The method of claim 85 wherein a content publisher has specified a pre-defined area on the web page which, when its coordinates correspond in a pre-defined manner with coordinates of the computing system's browser dimension, triggers content downloading from servers and rendering at the pre-defined area of the web page.

89. (New) The method of claim 85 wherein if a pre-defined area in the web page in which an advertisement has been rendered is scrolled out of the visible area of the application window a timer tracking the time the pre-defined area was in the visible area stops.

90. (New) The method of claim 89, wherein if the pre-defined area in the web page which has been scrolled out of the visible area is scrolled back into the visible area the timer is turned back on.

91. (New) The method of claim 77, wherein a timer tracks the amount of time the new content is at least partially visible in the visible area.

92. (New) The method of claim 75 wherein content placement fee structures are based on whether the pre-defined area in which an advertisement has been rendered has been at least partially within the visible area.

93. (New) The method of Claim 23, further comprising billing for display of an advertisement rendered in a pre-defined area of a webpage as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window.

94. (New) The method of Claim 75 wherein content fee structures applied to a particular pre-defined area are applied based at least in part on whether the pre-defined area has been at least partially within a visible area of the application window.

95. The method of Claim 23, wherein if a pre-defined area in which an advertisement has been rendered has been determined to be within the visible area of the application window and subsequently determined to be outside the visible area, the computing system doing one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed; transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.

Duration Media Ex-1085

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 12/316,781	Examiner: Joseph, Shawn S.
Inventors(s): Brad Krassner, et al.	Art Unit: 2176
Filed: 12/16/2008	Confirmation No.: 2529
Title: CONTENT RENDERING CONTROL SYSTEM AND METHOD	Attorney Reference No.: RV E1 US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION

Dear Sir:

In response to the Non-Final Office Action mailed on 02/07/2019, Applicant submits the present Response to Non-Final Office Action and asks that the Examiner please consider the following remarks:

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 11 of this paper.

A Conclusion is provided on page 21 of this paper.

REMARKS

Applicant thanks the Examiner for his efforts in preparing the Office Action. Applicant respectfully traverses each of the grounds of the Examiner's objections and rejections but nonetheless and without prejudice responds with the amendments of this Response. Applicant preserves the right to pursue any subject matter pending prior to the present traversals and amendments. No new matter has been added in the present amendments.

The following remarks are responsive to the Office Action dated February 7, 2019.

Claims 23 and 65-83 are rejected.

Claims 23, 65-79 have been amended. Claims 80-83 have been cancelled. Claims 84-95 are new.

Claim Rejections - 35 USC § 103

Claims 23,65-66,68,70,72,74 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel").

Claims 67, 69 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel"), and further in view of Takeshima et al., U.S. Pub. No. 2008/0092078 A1 (hereinafter, "Takeshima").

Claims 71 and 73 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel"), and further in view of Cohen et al., (IDS) U.S. Pub No. 2008/0306794A1 (hereinafter, "Cohen").

Claims 75-77, 79-83 are rejected under 35 U.S.C. 103 as being unpatentable over Dutta et al., U.S. Pub US 2004/0205651A1 (hereinafter, "Dutta"), in view of Koeppel et al., U.S. Pub No US 2005/0177401A1 (hereinafter, "Koeppel").

Claims 78 is rejected under 35 U.S.C. 103 as being unpatentable over Dutta et al., U.S. Pub US 2004/0205651A1 (hereinafter, "Dutta"), in view of and further in view of Takeshima et al., U.S. Pub No 2008/0092078 A1 (hereinafter, "Takeshima").

Claim 23

Claim 23 was rejected over Mitchell in view of Koeppel. Applicant respectfully traverses this and all other rejections of the Office Action, but in the interests of prosecution efficiency has amended Claim 23 to recite (in redline form):

> 23. A method comprising:
>
> determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;
>
> causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window.

For purposes of this discussion and for the Examiner's convenience amended claim 23 is presented below in non-redline form:

> 23. A method comprising:
>
> determining, by code executed by a computing system,

Duration Media Ex-1085

> whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;
>
> causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window.

As emphasized above, amended claim 23 refers to "pre-defined areas" "in a web page". Mitchell does not teach any "pre-defined areas" "in a web page".

Mitchell uses the term "web page" inconsistently. On one hand Mitchell uses the term "web page" as is commonly understood in the technology. In keeping with this use of the term, Mitchell identifies the two types of content which Mitchel terms as "primary content" and "additional content". Mitchell frequently describes the "primary content" as the "Web page document 130" (see, col. 11 lines 24 et al.) as is the common technical understanding of the term "web page" and as also used by Mitchell such as at col. 1 lines 12 et al., "World Wide Web (WWW) documents, or Web pages, are widely used for distributing information to a variety of client devices".

However, Mitchell also uses the term "Web page" quite apart from common technical understandings, and as is his right, apparently uses the term "Web page" to refer to the entire space inside a browser screen: "FIG. 7 is a flow diagram illustrating … used by the present invention to selectively display multiple content modules in a Web page based on the available display area and the size of the content modules". (See, e.g., col. 5 lines 4-23, emphasis added). Thus, Mitchell uses the term "web page" interchangeably between two meanings: first, the "primary content" or "Web page document 130" (as is the customary meaning of the term) and as the entire space inside a browser screen as adapted and utilized in Mitchell's disclosure.

Applicant defines its term "web page" as is common in the industry and as described in its specification, such as at paragraph [0057],:

> Referring now to FIG. **2,** an overview of a preferred embodiment of the present invention is shown. The present invention interacts with one or more content page viewer computer systems or other communications devices having a browser application **22, 33, 44** and mm, and communicating via the Internet **88** with the content page computer system **10.** The content page computer system **10** comprises a content page server **12** and file storage device **20** as with the typical Internet client-server model utilizing HTTP. HTTP is a known application protocol that provides users access to content in different formats such as text, graphics, images, sound, video, as well as programs. HTML is a standard page description language which provides basic document formatting and allows the programmer to specify links to other servers and files. Links are specified via a Uniform Resource Locator or URL. Upon specification of a link, the client makes a TCP/IP request to the server and receives information that was specified in that URL (for example another Web page that was formatted according to HTML) in return. The information returned may be generated in whole or in part by a program that executes on the server. Such programs are typically known as Common-Gateway-Interface scripts and can be written using known programming languages or methods that the server supports. A typical Web page is an HTML document with text, "links" that a user may activate (e.g. "click on"), as well as embedded URLs pointing to resources (such as images, video or sound) that the client must fetch to fully render the Web Page in a browser. These resources may not be located on the same server that the HTML document was sent from. …

Accordingly, insofar as applicant understands Mitchell, applicant interprets the Mitchell terms "primary content" or "Web page document 130" as representing a "web page" as used in applicant's current claims and as commonly used in the industry. Mitchell clearly does not teach anything about any pre-defined area of the Mitchell "primary content" or the Mitchell "web page document 130". Accordingly, Mitchell does not teach, and the Examiner has not shown any prior art that teaches, "pre-defined areas in a web page" (as that term is used by applicant) the coordinates of which are compared with the coordinates of an application window to determine whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window; causing an advertisement to be rendered in the first pre-defined area of the web page in response to

determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window. It is respectfully submitted that due to this lack of teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

Furthermore, the Examiner has not shown any prior art teaching or suggestion of determining whether a first pre-defined area in a webpage is at least partially within a visible area of an application window of a computing system and causing an advertisement to be rendered in the first pre-defined area of the webpage in response to determining that the pre-defined area is at least partially within the visible area of the application window. It is respectfully submitted that due to this lack of teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

In addition to the unique elements discussed above, amended claim also requires that the method comprise determining whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the second pre-defined area with coordinates of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window. Mitchell certainly does not teach any method or system of comparing the coordinates of the application window with those of a pre-defined area of the web page outside of the visible area of the application window. Further, Mitchell teaches nothing about whether such a pre-defined area may be "a pre-defined distance" outside the visible area of the application window. Accordingly, it is respectfully submitted that due to these deficiencies in the teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

Koeppel is well discussed in the present prosecution history and it is respectfully submitted that Koeppel, alone or in combination with Mitchell, does not anticipate or render obvious the invention of amended claim 23. It is respectfully submitted that the Examiner has not identified in Koeppel any teach which anticipates or renders obvious the invention

of amended claim 23.

It is respectfully submitted that the Examiner has failed to show any of the above discussed features of amended claim 23 in the prior art and, accordingly, it is also respectfully submitted that amended claim 23 is in condition for allowance.

Certain claims dependent from amended claim 23 are discussed below. Inasmuch as claims 65-74 depend from amended claim 23 which is submitted as being in condition for allowance, as dependent on an allowable claim it is submitted that these claims are also in condition for allowance.

Claim 65

Claim 65 has been amended. No new matter has been added by the amendment.

Amended claim 65 depends from amended claim 23 and requires causing a rendered advertisement that has been within the visible area of the application window to be removed and causing a counter to stop counting an amount of time that the rendered advertisement was visible, and causing the rendered advertisement to be replaced with new advertising content in the pre-defined area.

It is respectfully submitted that the Examiner has not presented any prior art that teaches or suggests the invention of amended claim 65.

Claim 67

Amended claim 67, which amendment also includes no new matter, sets out the method of Claim 23, wherein after determining that a pre-defined area of the webpage is within a pre-defined distance outside of the visible area of the application window a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the webpage.

Support for the amendment to claim 67 is shown in numerous instances in the specification, including in the last ten lines of paragraph [0060].

It is respectfully submitted that the Examiner has not presented any art that teaches or renders amended claim 67 unpatentable.

Claim 68

Amended claim 68 is dependent on claim 23 and further requires determining for each pre-defined area that is at least partially visible within the visible are of the application window, a percentage of the respective pre-defined area that is at least partially within the visible area of the application window.

It is respectfully submitted that the Examiner has not presented any prior art evidence that renders amended claim 68 unpatentable.

Other claims dependent on Claim 23

It is respectfully submitted that all the claims dependent from claim 23 are allowable as depending from an allowable independent claim.

Independent claim 75

Independent claim 75 stands rejected under various prior art references noted above. These rejections are respectfully traversed, but in the interests of prosecution efficiency independent claim 75 has been amended to provide:

> A method comprising:
>
> determining, by code executed by a computing system, whether a pre-defined area in a webpage is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;
>
> then, by code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing system;
>
> by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined

to be within a pre-defined distance outside of the visible area of the application window.

Claim 75 was rejected over various references as set out above. However, for the reasons set out above, which are deemed particularly relevant given the amendments to claim 75, it is respectfully submitted that claim 75 is patentable over the cited art.

Support for the amendments to claim 75 are found throughout the specification and including in the last ten lines of paragraph [0060].

Claim 75 has been amended to respond to the Examiner's rejection, including rejection based on Mitchell and other art, and also in response to the July 17, 2018 decision of the Patent Trial and Appeal Board.

Amended claim 75 now requires the comparing of coordinates, determining distance outside of the visible area, signaling a server, and rendering downloaded material in the pre-defined area in the web page. All of these elements occur with regard to the specified web page and so, it is respectfully submitted, the amended claim overcomes the grounds for the rejection of claim 75 before the Patent Trial and Appeal Board.

Further, the amendments to claim 75 further set the claim apart from the newly cited Mitchell reference. It is respectfully submitted that the Examiner has not presented any instance in Mitchell or other art, nor does Mitchell or any other cited prior art, teach or suggest:

comparing coordinates of the visible area in a web page with the coordinates of a pre-defined area that is outside of the visible area;

determining whether the pre-defined area is a pre-determined distance outside the visible area;

signaling a server whereby in response to the signaling an advertisement is downloaded; and

rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-determined distance outside of the visible are of the application window.

Again, and for the reasons discussed above with reference to amended claim 23, it is respectfully submitted that Mitchell simply doesn't teach these features. Mitchell doesn't address a pre-defined area in a web page, and certainly not a pre-defined area outside the visible area of the application window, nor whether the pre-defined area is a pre-determined distance outside the visible area, nor signaling for, downloading and rendering an advertisement in the pre-defined area.

It is respectfully submitted that the Examiner has not shown any prior art that teaches or suggests the invention of amended claim 75 and it is also respectfully requested that amended claim 75 be allowed.

Inasmuch as amended claim 75 is in condition for allowance, it is respectfully submitted that the claims dependent from claim 75 are also in condition for allowance.

Claim 76

Amended claim 76 requires that the pre-defined area of the web page has been specified prior to the web page being rendered on the computing system. Support for this amendment is found in numerous instances through the specification, including at paragraph [0061].

It is respectfully submitted that none of the cited prior art teaches or renders obvious the invention of claim 76.

Claim 77

Claim 77 speaks to methods applying to an advertisement that has been rendered in a pre-defined area that was determined to be within a pre-defined distance outside the visible area and has been scrolled into the visible area. On this basis alone, and certainly among others of the claim, it is respectfully submitted that the claim is allowable over the prior art.

Claim 78

Claim 78 requires that rendering of the advertisement in the pre-defined area is billed only if the pre-defined area with the rendered advertisement is scrolled into the visible area of the application window.

Support for claim 78 is shown in the specification, including at paragraph [0009].

It is respectfully submitted that the method of claim 78 is neither taught nor rendered obvious by any of the art of record.

Independent claim 84

Independent claim 84 is new and does not introduce any new matter into the application.

Claim 84 speaks to a first, second and third pre-defined area in a web page and possibly rendering an advertisement into the first pre-defined area, possibly rendering an advertisement in the second pre-defined area if it is determined that the second pre-defined area is within a pre-defined distance outside a visible area, and then determining whether a third pre-determined area is within a pre-defined distance outside the visible area and, if it is, rendering an advertisement into the third pre-defined area.

It is respectfully submitted that claim 84 is allowable over the art of record for the reasons set forth with regard to the other independent claim of this Response and also for the reason that none of the cited art sets forth or suggests the sequence set forth in claim 84.

It is respectfully submitted that all of the dependent claims of this Response are allowable as depending from allowable independent claims.

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to contact Wayne Joens at (650) 906-6200 at the Examiner's convenience to further the allowance of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment, to Deposit Account 50-5550.

Respectfully submitted,

Dated:08/07/2019

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AMENDMENTS TO CLAIMS

For the convenience of the Examiner, all pending claims of the present Application are shown below whether or not an amendment has been made.

1. - 22. (Canceled)

23. (Currently Amended) A method comprising:

determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;

causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window.

24. - 64. (Canceled)

65. (Currently Amended) The method of Claim 23, further comprising:

by the code, after an advertisement has been rendered in a pre-defined area of the web page that is within the visible area of the application window,

causing the rendered advertisement that has been within the visible area of the application window to be removed and causing a counter to stop counting an amount of time that the rendered advertisement was visible, and

Duration Media Ex-1085

causing the rendered advertisement to be replaced with new advertising content in the pre-defined area.

66. (Currently Amended) The method of Claim 23, wherein web pagethe code comprises code embedded in the web page.

67. (Currently Amended) The method of Claim 23, wherein after determining that a pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the web page.

68. (Currently Amended) The method of Claim 23, further comprising determining, by the code and for each pre-defined area that is at least partially visible within the visible area of the application window, a percentage of the respective pre-defined area that is at least partially within the visible area of the application window.

69. (Currently Amended) The method of Claim 23, wherein determining that the first pre-defined area of the web page is at least partially within the visible area of the application window comprises:

determining page coordinates of the first pre-defined area;

determining the coordinates of the application window; and determining that the page coordinates of the first pre-defined area are at least partially within the determined coordinates of the application window.

70. (Currently Amended) The method of Claim 23, wherein causing the advertisement to be rendered in one of the pre-defined areas of the web page comprises retrieving, by the code, one or more content files and rendering the one or more content files in the one of the pre-.defined area of the content page.

71. (Currently Amended) The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:

how long each advertisement rendered in a pre-defined area of the web page is within the visible area of the application window;

an identifier of each advertisement rendered in a pre-defined area of the web page;

the particular pre-defined area of the web page in which each advertisement was rendered; and

a list of other content already rendered on the content page.

72. (Currently Amended) The method of Claim 23, wherein the code determines that apre-defined area of the web page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the particular pre-defined area of the web page.

73. (Currently Amended) The method of Claim 23, further comprising determining, by the code, an amount of time, if any, that eachadvertisement is at least partially visible on the display device.

74. (Currently Amended) The method of Claim 23, further comprising billing for display of an advertisement rendered in a pre-defined area of a web page as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window.

75. (Currently Amended Previously Presented) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area in a web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

then, by code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing sytem;

by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-defined distance outside of the visible area of the application window.

76. (Currently Amended) The method of Claim 75, wherein the pre-defined area of the web page was specified prior to the web page being rendered on the computing system.

77. (Currently Amended) The method of Claim 75, further comprising:

causing an advertisement previously-rendered in the pre-defined area and that has been scrolled into the visible area of the application window to be removed; and

causing an advertisement previously-rendered in the pre-defined area to be replaced with new advertising content in the pre-defined area.

78. (Currently Amended) The method of Claim 75, wherein the rendering of the advertisement in the pre-defined area is billed only if the pre-defined area with the rendered advertisement is scrolled into the visible area of the application window.

79. (Currently Amended) The method of Claim 77, further comprising billing for rendering the new advertising content in the pre-defined area if the new advertising

content as rendered is at least partially within the visible area of the application window.

80. (Cancelled)

81. (Cancelled)

82. (Cancelled)

83. (Cancelled)

84. (New) A method comprising:

determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window;

determining by code executed by the computing system whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the second pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application;

then determining whether a third pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the third pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the third pre-defined area of the web page in response to determining that the third pre-defined area is within the pre-defined distance outside of the visible area of the application.

85. (New) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area in a web page is at least partially within a visible area of an application window on a display device;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application;

Duration Media Ex-1085

after transmitting the indication, downloading content from a computing system; and

rendering the downloaded content in the pre-defined area of the application window on the display device.

86. (New) The method of claim 85, further comprising:
Tracking the amount of time that the rendered downloaded content is at least partially within the visible area.

87. (New) The method of claim 85 wherein each pre-defined area has a tag associated with the pre-defined area. [0010]

88. (New) The method of claim 85 wherein a content publisher has specified a pre-defined area on the web page which, when its coordinates correspond in a pre-defined manner with coordinates of the computing system's browser dimension, triggers content downloading from servers and rendering at the pre-defined area of the web page.

89. (New) The method of claim 85 wherein if a pre-defined area in the web page in which an advertisement has been rendered is scrolled out of the visible area of the application window a timer tracking the time the pre-defined area was in the visible area stops.

90. (New) The method of claim 89, wherein if the pre-defined area in the web page which has been scrolled out of the visible area is scrolled back into the visible area the timer is turned back on.

91. (New) The method of claim 77, wherein a timer tracks the amount of time the new content is at least partially visible in the visible area.

92. (New) The method of claim 75 wherein content placement fee structures are based on whether the pre-defined area in which an advertisement has been rendered has been at least partially within the visible area.

93. (New) The method of Claim 23, further comprising billing for display of an advertisement rendered in a pre-defined area of a webpage as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window.

94. (New) The method of Claim 75 wherein content fee structures applied to a particular pre-defined area are applied based at least in part on whether the pre-defined area has been at least partially within a visible area of the application window.

95. The media of Claim 80, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed; transmitting an indication to the computing system that the pre-defined area is not at

least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 12/316,781	Examiner: Joseph, Shawn S.
Inventors(s): Brad Krassner, et al.	Art Unit: 2176
Filed: 12/16/2008	Confirmation No.: 2529
Title: CONTENT RENDERING CONTROL SYSTEM AND METHOD	Attorney Reference No.: RV E1 US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION

Dear Sir:

In response to the Non-Final Office Action mailed on 02/07/2019, Applicant submits the present Response to Non-Final Office Action and asks that the Examiner please consider the following remarks:

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 11 of this paper.

A Conclusion is provided on page 21 of this paper.

REMARKS

Applicant thanks the Examiner for his efforts in preparing the Office Action. Applicant respectfully traverses each of the grounds of the Examiner's objections and rejections but nonetheless and without prejudice responds with the amendments of this Response. Applicant preserves the right to pursue any subject matter pending prior to the present traversals and amendments. No new matter has been added in the present amendments.

The following remarks are responsive to the Office Action dated February 7, 2019.

Claims 23 and 65-83 are rejected.

Claim Rejections - 35 USC § 103

Claims 23,65-66,68,70,72,74 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel").

Claims 67, 69 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel"), and further in view of Takeshima et al., U.S. Pub. No. 2008/0092078 A1 (hereinafter, "Takeshima").

Claims 71 and 73 are rejected under 35 U.S.C. 103 as being unpatentable as being over Mitchell et al., (IDS). U.S. Patent No. US 6,983,331 Bl (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 Al (hereinafter, "Koeppel"), and further in view of Cohen et al., (IDS) U.S. Pub No. 2008/0306794A1 (hereinafter, "Cohen").

Claims 75-77, 79-83 are rejected under 35 U.S.C. 103 as being unpatentable over Dutta et al., U.S. Pub US 2004/0205651A1 (hereinafter, "Dutta"), in view of Koeppel et al., U.S. Pub No US 2005/0177401A1 (hereinafter, "Koeppel").

Claims 78 is rejected under 35 U.S.C. 103 as being unpatentable over Dutta et al., U.S. Pub US 2004/0205651A1 (hereinafter, "Dutta"), in view of and further in view of Takeshima et al., U.S. Pub No 2008/0092078 A1 (hereinafter, "Takeshima").

Claim 23

Claim 23 was rejected over Mitchell in view of Koeppel. Applicant respectfully traverses this and all other rejections of the Office Action, but in the interests of prosecution efficiency has amended Claim 23 to recite (in redline form):

> 23. A method comprising:
>
> determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;
>
> causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window.

For purposes of this discussion and for the Examiner's convenience amended claim 23 is presented below in non-redline form:

> 23. A method comprising:
>
> determining, by code executed by a computing system, whether a first pre-defined area <u>in a web page</u> is at least partially within a visible area of an application window on a display device and whether a second pre-defined area <u>in the web page</u> is within a pre-defined distance outside of the visible area of the application

> window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;
>
> causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window.

As emphasized above, amended claim 23 refers to "pre-defined areas" "in a web page". Mitchell does not teach any "pre-defined areas" "in a web page".

Mitchell uses the term "web page" inconsistently. On one hand Mitchell uses the term "web page" as is commonly understood in the technology. In keeping with this use of the term, Mitchell identifies the two types of content which Mitchel terms as "primary content" and "additional content". Mitchell frequently describes the "primary content" as the "Web page document 130" (see, col. 11 lines 24 et al.) as is the common technical understanding of the term "web page" and as also used by Mitchell such as at col. 1 lines 12 et al., "World Wide Web (WWW) documents, or Web pages, are widely used for distributing information to a variety of client devices".

However, Mitchell also uses the term "Web page" quite apart from common technical understandings, and as is his right, apparently uses the term "Web page" to refer to the entire space inside a browser screen: "FIG. 7 is a flow diagram illustrating … used by the present invention to selectively display multiple content modules in a Web page based on the available display area and the size of the content modules". (See, e.g., col. 5 lines 4-23, emphasis added). Thus, Mitchell uses the term "web page" interchangeably between two meanings: first, the "primary content" or "Web page document 130" (as is the customary meaning of the term) and as the entire space inside a browser screen as adapted and utilized in Mitchell's disclosure.

Applicant defines its term "web page" as is common in the industry and as described in its specification, such as at paragraph [0057],:

> Referring now to FIG. **2,** an overview of a preferred

embodiment of the present invention is shown. The present invention interacts with one or more content page viewer computer systems or other communications devices having a browser application **22, 33, 44** and mm, and communicating via the Internet **88** with the content page computer system **10.** The content page computer system **10** comprises a content page server **12** and file storage device **20** as with the typical Internet client-server model utilizing HTTP. HTTP is a known application protocol that provides users access to content in different formats such as text, graphics, images, sound, video, as well as programs. HTML is a standard page description language which provides basic document formatting and allows the programmer to specify links to other servers and files. Links are specified via a Uniform Resource Locator or URL. Upon specification of a link, the client makes a TCP/IP request to the server and receives information that was specified in that URL (for example another Web page that was formatted according to HTML) in return. The information returned may be generated in whole or in part by a program that executes on the server. Such programs are typically known as Common-Gateway-Interface scripts and can be written using known programming languages or methods that the server supports. A typical Web page is an HTML document with text, "links" that a user may activate (e.g. "click on"), as well as embedded URLs pointing to resources (such as images, video or sound) that the client must fetch to fully render the Web Page in a browser. These resources may not be located on the same server that the HTML document was sent from. …

Accordingly, insofar as applicant understands Mitchell, applicant interprets the Mitchell terms "primary content" or "Web page document 130" as representing a "web page" as used in applicant's current claims and as commonly used in the industry. Mitchell clearly does not teach anything about any pre-defined area of the Mitchell "primary content" or the Mitchell "web page document 130". Accordingly, Mitchell does not teach, and the Examiner has not shown any prior art that teaches, "pre-defined areas in a web page" (as that term is used by applicant) the coordinates of which are compared with the coordinates of an application window to determine whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window; causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined

area in the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window. It is respectfully submitted that due to this lack of teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

Furthermore, the Examiner has not shown any prior art teaching or suggestion of determining whether a first pre-defined area in a webpage is at least partially within a visible area of an application window of a computing system and causing an advertisement to be rendered in the first pre-defined area of the webpage in response to determining that the pre-defined area is at least partially within the visible area of the application window. It is respectfully submitted that due to this lack of teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

In addition to the unique elements discussed above, amended claim also requires that the method comprise determining whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the second pre-defined area with coordinates of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window. Mitchell certainly does not teach any method or system of comparing the coordinates of the application window with those of a pre-defined area of the web page outside of the visible area of the application window. Further, Mitchell teaches nothing about whether such a pre-defined area may be "a pre-defined distance" outside the visible area of the application window. Accordingly, it is respectfully submitted that due to these deficiencies in the teaching of the prior art presented by the Examiner, amended claim 23 is allowable over the art.

Koeppel is well discussed in the present prosecution history and it is respectfully submitted that Koeppel, alone or in combination with Mitchell, does not anticipate or render obvious the invention of amended claim 23. It is respectfully submitted that the Examiner has not identified in Koeppel any teach which anticipates or renders obvious the invention of amended claim 23.

It is respectfully submitted that the Examiner has failed to show any of the above discussed features of amended claim 23 in the prior art and, accordingly, it is also respectfully submitted that amended claim 23 is in condition for allowance.

Certain claims dependent from amended claim 23 are discussed below. Inasmuch as claims 65-74 depend from amended claim 23 which is submitted as being in condition for allowance, as dependent on an allowable claim it is submitted that these claims are also in condition for allowance.

Claim 65

Claim 65 has been amended. No new matter has been added by the amendment.

Amended claim 65 depends from amended claim 23 and requires causing a rendered advertisement that has been within the visible area of the application window to be removed and causing a counter to stop counting an amount of time that the rendered advertisement was visible, and causing the rendered advertisement to be replaced with new advertising content in the pre-defined area.

It is respectfully submitted that the Examiner has not presented any prior art that teaches or suggests the invention of amended claim 65.

Claim 67

Amended claim 67, which amendment also includes no new matter, sets out the method of Claim 23, wherein after determining that a pre-defined area of the webpage is within a pre-defined distance outside of the visible area of the application window a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the webpage.

Support for the amendment to claim 67 is shown in numerous instances in the specification, including in the last ten lines of paragraph [0060].

It is respectfully submitted that the Examiner has not presented any art that teaches or renders amended claim 67 unpatentable.

Claim 68

Amended claim 68 is dependent on claim 23 and further requires determining for each pre-defined area that is at least partially visible within the visible are of the application window, a percentage of the respective pre-defined area that is at least partially within the visible area of the application window.

It is respectfully submitted that the Examiner has not presented any prior art evidence that renders amended claim 68 unpatentable.

Other claims dependent on Claim 23

It is respectfully submitted that all the claims dependent from claim 23 are allowable as depending from an allowable independent claim.

Independent claim 75

Independent claim 75 stands rejected under various prior art references noted above. These rejections are respectfully traversed, but in the interests of prosecution efficiency independent claim 75 has been amended to provide:

> A method comprising:
>
> determining, by code executed by a computing system, whether a pre-defined area in a webpage is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;
>
> then, by code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing system;
>
> by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-defined distance outside of the visible area of the application window.

Claim 75 was rejected over various references as set out above. However, for the reasons set out above, which are deemed particularly relevant given the amendments to claim 75, it is respectfully submitted that claim 75 is patentable over the cited art.

Support for the amendments to claim 75 are found throughout the specification and including in the last ten lines of paragraph [0060].

Claim 75 has been amended to respond to the Examiner's rejection, including rejection based on Mitchell and other art, and also in response to the July 17, 2018 decision of the Patent Trial and Appeal Board.

Amended claim 75 now requires the comparing of coordinates, determining distance outside of the visible area, signaling a server, and rendering downloaded material in the pre-defined area in the web page. All of these elements occur with regard to the specified web page and so, it is respectfully submitted, the amended claim overcomes the grounds for the rejection of claim 75 before the Patent Trial and Appeal Board.

Further, the amendments to claim 75 further set the claim apart from the newly cited Mitchell reference. It is respectfully submitted that the Examiner has not presented any instance in Mitchell or other art, nor does Mitchell or any other cited prior art, teach or suggest:

> comparing coordinates of the visible area in a web page with the coordinates of a pre-defined area that is outside of the visible area;
>
> determining whether the pre-defined area is a pre-determined distance outside the visible area;
>
> signaling a server whereby in response to the signaling an advertisement is downloaded; and
>
> rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-determined distance outside of the visible are of the application window.

Again, and for the reasons discussed above with reference to amended claim 23, it is respectfully submitted that Mitchell simply doesn't teach these features. Mitchell doesn't address a pre-defined area in a web page, and certainly not a pre-defined area outside the visible area of the application window, nor whether the pre-defined area is a pre-determined distance outside the visible area, nor signaling for, downloading and rendering an advertisement in the pre-defined area.

It is respectfully submitted that the Examiner has not shown any prior art that teaches or suggests the invention of amended claim 75 and it is also respectfully requested that amended claim 75 be allowed.

Inasmuch as amended claim 75 is in condition for allowance, it is respectfully submitted that the claims dependent from claim 75 are also in condition for allowance.

Claim 76

Amended claim 76 requires that the pre-defined area of the web page has been specified prior to the web page being rendered on the computing system. Support for this amendment is found in numerous instances through the specification, including at paragraph [0061].

It is respectfully submitted that none of the cited prior art teaches or renders obvious the invention of claim 76.

Claim 77

Claim 77 speaks to methods applying to an advertisement that has been rendered in a pre-defined area that was determined to be within a pre-defined distance outside the visible area and has been scrolled into the visible area. On this basis alone, and certainly among others of the claim, it is respectfully submitted that the claim is allowable over the prior art.

Claim 78

Claim 78 requires that rendering of the advertisement in the pre-defined area is billed only if the pre-defined area with the rendered advertisement is scrolled into the visible area of the application window.

Support for claim 78 is shown in the specification, including at paragraph [0009].

It is respectfully submitted that the method of claim 78 is neither taught nor rendered obvious by any of the art of record.

Independent claim 84

Independent claim 84 is new and does not introduce any new matter into the application.

Claim 84 speaks to a first, second and third pre-defined area in a web page and possibly rendering an advertisement into the first pre-defined area, possibly rendering an advertisement in the second pre-defined area if it is determined that the second pre-defined area is within a pre-defined distance outside a visible area, and then determining whether a third pre-determined area is within a pre-defined distance outside the visible area and, if it is, rendering an advertisement into the third pre-defined area.

It is respectfully submitted that claim 84 is allowable over the art of record for the reasons set forth with regard to the other independent claim of this Response and also for the reason that none of the cited art sets forth or suggests the sequence set forth in claim 84.

It is respectfully submitted that all of the dependent claims of this Response are allowable as depending from allowable independent claims.

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to contact Wayne Joens at (650) 906-6200 at the Examiner's convenience to further the allowance of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment, to Deposit Account 50-5550.

Respectfully submitted,

Dated:08/07/2019

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AMENDMENTS TO CLAIMS

For the convenience of the Examiner, all pending claims of the present Application are shown below whether or not an amendment has been made.

1. - 22. (Canceled)

23. (Currently Amended) A method comprising:

determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and whether a second pre-defined area in the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the first and second pre-defined areas with coordinates of the application window;

causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application window.

24. - 64. (Canceled)

65. (Currently Amended) The method of Claim 23, further comprising:

by the code, after an advertisement has been rendered in a pre-defined area of the web page that is within the visible area of the application window,

causing the rendered advertisement that has been within the visible area of the application window to be removed and causing a counter to stop counting an amount of time that the rendered advertisement was visible, and

Duration Media Ex-1085

causing the rendered advertisement to be replaced with new advertising content in the pre-defined area.

66. (Currently Amended) The method of Claim 23, wherein web pagethe code comprises code embedded in the web page.

67. (Currently Amended) The method of Claim 23, wherein after determining that a pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window a signal is sent from the computing system to a server whereby in response to the signal sent to the server an advertisement is downloaded to the computer system, and by code executed by the computer system the downloaded advertisement is rendered in the pre-defined area of the web page.

68. (Currently Amended) The method of Claim 23, further comprising determining, by the code and for each pre-defined area that is at least partially visible within the visible area of the application window, a percentage of the respective pre-defined area that is at least partially within the visible area of the application window.

69. (Currently Amended) The method of Claim 23, wherein determining that the first pre-defined area of the web page is at least partially within the visible area of the application window comprises:

determining page coordinates of the first pre-defined area;

determining the coordinates of the application window; and determining that the page coordinates of the first pre-defined area are at least partially within the determined coordinates of the application window.

70. (Currently Amended) The method of Claim 23, wherein causing the advertisement to be rendered in one of the pre-defined areas of the web page comprises retrieving, by the code, one or more content files and rendering the one or more content files in the one of the pre-.defined area of the content page.

Duration Media Ex-1085

71. (Currently Amended) The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:

how long each advertisement rendered in a pre-defined area of the web page is within the visible area of the application window;

an identifier of each advertisement rendered in a pre-defined area of the web page;

the particular pre-defined area of the web page in which each advertisement was rendered; and

a list of other content already rendered on the content page.

72. (Currently Amended) The method of Claim 23, wherein the code determines that apre-defined area of the web page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the particular pre-defined area of the web page.

73. (Currently Amended) The method of Claim 23, further comprising determining, by the code, an amount of time, if any, that eachadvertisement is at least partially visible on the display device.

74. (Currently Amended) The method of Claim 23, further comprising billing for display of an advertisement rendered in a pre-defined area of a web page as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window.

75. (Currently Amended Previously Presented) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area in a web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

then, by code executed by the computing system signaling a server whereby in response to the signaling to the server an advertisement is downloaded to the computing sytem;

by code executed by the computing system, rendering the downloaded advertisement in the pre-defined area in the web page which has been determined to be within a pre-defined distance outside of the visible area of the application window.

76. (Currently Amended) The method of Claim 75, wherein the pre-defined area of the web page was specified prior to the web page being rendered on the computing system.

77. (Currently Amended) The method of Claim 75, further comprising:

causing an advertisement previously-rendered in the pre-defined area and that has been scrolled into the visible area of the application window to be removed; and

causing an advertisement previously-rendered in the pre-defined area to be replaced with new advertising content in the pre-defined area.

78. (Currently Amended) The method of Claim 75, wherein the rendering of the advertisement in the pre-defined area is billed only if the pre-defined area with the rendered advertisement is scrolled into the visible area of the application window.

79. (Currently Amended) The method of Claim 77, further comprising billing for rendering the new advertising content in the pre-defined area if the new advertising

content as rendered is at least partially within the visible area of the application window.

101 Duration Media Ex-1085

80. (Cancelled)

81. (Cancelled)

82. (Cancelled)

83. (Cancelled)

84. (New) A method comprising:

determining, by code executed by a computing system, whether a first pre-defined area in a web page is at least partially within a visible area of an application window on a display device and causing an advertisement to be rendered in the first pre-defined area of the web page in response to determining that the pre-defined area is at least partially within the visible area of the application window;

determining by code executed by the computing system whether a second pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the second pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the second pre-defined area of the web page in response to determining that the second pre-defined area is within the pre-defined distance outside of the visible area of the application;

then determining whether a third pre-defined area of the web page is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the third pre-defined areas with coordinates of the application window and causing an advertisement to be rendered in the third pre-defined area of the web page in response to determining that the third pre-defined area is within the pre-defined distance outside of the visible area of the application.

85. (New) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area in a web page is at least partially within a visible area of an application window on a display device;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application;

 Duration Media Ex-1085

after transmitting the indication, downloading content from a computing system; and

rendering the downloaded content in the pre-defined area of the application window on the display device.

86. (New) The method of claim 85, further comprising:
Tracking the amount of time that the rendered downloaded content is at least partially within the visible area.

87. (New) The method of claim 85 wherein each pre-defined area has a tag associated with the pre-defined area. [0010]

88. (New) The method of claim 85 wherein a content publisher has specified a pre-defined area on the web page which, when its coordinates correspond in a pre-defined manner with coordinates of the computing system's browser dimension, triggers content downloading from servers and rendering at the pre-defined area of the web page.

89. (New) The method of claim 85 wherein if a pre-defined area in the web page in which an advertisement has been rendered is scrolled out of the visible area of the application window a timer tracking the time the pre-defined area was in the visible area stops.

90. (New) The method of claim 89, wherein if the pre-defined area in the web page which has been scrolled out of the visible area is scrolled back into the visible area the timer is turned back on.

91. (New) The method of claim 77, wherein a timer tracks the amount of time the new content is at least partially visible in the visible area.

92. (New) The method of claim 75 wherein content placement fee structures are based on whether the pre-defined area in which an advertisement has been rendered has been at least partially within the visible area.

93. (New) The method of Claim 23, further comprising billing for display of an advertisement rendered in a pre-defined area of a webpage as a viewable advertisement only when the pre-defined area of the rendered advertisement is at least partially within a visible area of the application window.

94. (New) The method of Claim 75 wherein content fee structures applied to a particular pre-defined area are applied based at least in part on whether the pre-defined area has been at least partially within a visible area of the application window.

95. The media of Claim 80, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed; transmitting an indication to the computing system that the pre-defined area is not at

least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible

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EXAMINER
JOSEPH, SHAWN S

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
02/07/2019	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@jonesip.com
eofficeaction@appcoll.com

Office Action Summary	Application No. 12/316,781	Applicant(s) Krassner et al.	
	Examiner SHAWN S JOSEPH	Art Unit 2176	AIA Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☑ Responsive to communication(s) filed on 7/17/18.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL.** 2b) ☑ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5) ☑ Claim(s) 23 and 65-83 is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☑ Claim(s) 23 and 65-83 is/are rejected.

8) ☐ Claim(s) _____ is/are objected to.

9) ☐ Claim(s) _____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to **PPHfeedback@uspto.gov.**

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☑ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

4) ☐ Other: _____.

DETAILED ACTION

In view of the Patent Board Decision filed on 07/07/2018 and the Information Disclosure Statement (IDS) filed 11/12/2015, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

Examiner notes MPEP 1214.04:

"If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, they should submit the matter to the Technology Center (TC) Director or Central Reexamination Unit (CRU) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection. See MPEP § 1002.02(c) and MPEP § 1214.07. The TC Director's approval is placed on the action reopening prosecution."

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Technology Center (TC) Director has approved of reopening prosecution by signing below:

/SEEMA S RAO/

Director, TC 2100

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 23, 65-66, 68, 70, 72, 74 are rejected under 35 U.S.C. 103(a) as being over Mitchell et al., (IDS) U.S. Patent No. US 6,983,331 B1 (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 A1 (hereinafter, "Koeppel").

Claim 23:

Mitchell teaches ***A method comprising:***

- ***determining, by code executed by a computing system,*** (see Col. 8, ¶ 3-4; Col. 16, ¶ 2 –"FIG. 9 illustrates the logic employed in this embodiment to selectively download and display one or more prioritized content modules...") ***whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device*** (see Col. 8, ¶ 3-4; Col. 16, ¶ 2 –"... the available content display area is determined based upon the known area of the requesting browser type and/or client display device. In a block 286, a priority content module is communicated to the browser program with associated browser location coordinates and other attributes, if any. In a preferred embodiment of this logic, determination of known available content display area and selection of priority content is done on Web server before any content module is communicated to the requesting browser program running on the client device." –The available content display area, which is a "*pre-defined area of a content page ... at least partially within a visible area of an application window on a display device,*" is determined based upon the known area of the requesting browser and associated browser location coordinates.) ***or is within a pre-defined distance outside of the visible area of the application window*** (Mitchell already teaches the alternate element) ***by comparing coordinates of the pre-defined area with coordinates of the application window;*** (Under the

Broadest Reasonable Interpretation, the clause "*by comparing coordinates of the pre- defined area with coordinates of the application window*" only limits "*is within a pre-defined distance outside of the visible area of the application window.*" Therefore, since Mitchell teaches the alternate element "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device,*" Mitchell already meets the claim. However, as a courtesy to applicant, the examiner will also reference teaching elements that meet the "comparing coordinates" portion of the limitation as applying to both alternate elements. Mitchell shows the limitation of "***by comparing coordinates of the pre-defined area with coordinates of the application window***" in see Col. 8, ¶ 3-4; Col. 16, ¶ 2 –"....the available content display area is determined based upon the known area of the requesting browser type and/or client display device. In a block 286, a priority content module is communicated to the browser program with associated browser location coordinates and other attributes, if any. In a preferred embodiment of this logic, determination of known available content display area and selection of priority content is done on Web server before any content module is communicated to the requesting browser program running on the client device." –The available content display area, which is a "*pre-defined area of a content page is either at least partially within a visible area of an application window on a display device,*" is determined based upon the known area of the requesting browser and associated browser location coordinates.)

- ***causing an advertisement to be rendered in the predefined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (see Col. 8, ¶ 3-4; Col. 16, ¶ 2 –"To balance these competing interests, a preferred embodiment of the present invention selectively displays added content 72 in an unused portion 63 of content display area 62, as shown in FIG. 2B. In the preferred embodiment of the present invention shown in FIG. 2B, unused portion 63 of content display area 62 is disposed to the right of primary content 70, and added content 72 will likely (although not necessarily) include advertising that is not generally related to the primary content. However, different preferred embodiments of the present invention can alternatively display added content 72 in other portions of the display area 62, such as to the left of the primary content 70, as shown in FIG. 2C. Furthermore, the added content may be directed to information that is related to the primary content," and

further, "As additionally illustrated by FIG. 2D, multiple additional content can be selectively displayed in the unused portion of available content display area 62. Moreover, this embodiment of the present invention selectively displays both primary content 70 and additional content 72 in content display area 62 only when the primary content and the one or more modules of additional content can be displayed without requiring scrolling in more than one direction." –Advertisement is included in added content, which is part of available content display area.)

As explained above, Mitchell broadly teaches, "*by comparing coordinates of the pre-defined area with coordinates of the application window,*" however, a stronger teaching of said concept is found in Koeppel. Koeppel teaches the concept of:

- *... by comparing coordinates of the pre-defined area with coordinates of the application window;* (see [0086]-[0088]; [0099]-[0105]; [0154]-[0155]; [0199]–"[0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The **in view** collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to

bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1," and further, "[0098] As shown in FIG. 9B, portion 982 of component 978 is not viewable in Web page 976. User activities such as resizing windows and scrolling affect the in view portion of Web page 976 and component 978. Accordingly, to determine what are the actual in view portions of Web page 976 and component 978, the client side script executes known Web-based programming language commands to collect the known current height Hbrowser and width Wbrowser of browser window 974. [0099] Once this information is generated, the client side script may now find the true viewable bottom coordinates YP2 and XP2 and missing coordinate XP1X of coordinate XP1 of the viewable Web page in the viewable browser window 974. [0100] Coordinates YP2 and XP2 are represented in (X,Y) format as: ...[0101] YP2 and XP1X are generated by first performing a pair of functions that adds the current height of the browser window Hbrowser to the Y coordinate of coordinate YP1 and adds the current width Wbrowser to the X coordinate of coordinate YP1, respectively. This is represented by functions (1) and (2) below: ... [0102] Since the coordinates of YP1 and XP1 and coordinate YP2Y are now known, the rest of the coordinates for YP2 and XP2 can be calculated using conditions (A), (B) and (D). [0103] Next, the client side script executes commands to calculate the coordinates of target component 978 within Web page 974. Coordinates YC1 and XC1 represent the coordinates of the top of component 978. ... [0105] Since the component was generated in the Web page at Web server 110, the position of component 978 in relation to Web page 976 may be determined during client side scripting known in the art. For example, if it is known that the component is 100 pixels down from the top edge of Web page 976 and 100 pixels from the left edge of Web page 976, the actual coordinates of YC1 of component 978 in relation to browser window 974, which is in relation to display 970, may be calculated as follows: ... and further, "[0199] The above may be implemented by injecting a tail into a web page. Alternatively the object may already be present in the browser or may arrive from any other source. If the object arrives with the page, then typically it is in the form of Javascript embedded within the page, such as a Java object.")

The claimed invention and the cited references, Mitchell, and Koeppel, are analogous art pertaining to electronic document processing. Further, the claimed invention and cited references are analogous art

pertaining to content rendering including, for example, advertising content. Further still, the claimed invention and cited references are analogous art pertaining to "in-view" (i.e., what is displayed on the browser screen) determinations during browsing activity and/or content positioning according to in-view data.

Thus, the combination of Mitchell and Koeppel represents the use of a known technique to improve similar devices in the same way (KSR Int'l v. Teleflex Inc., MPEP 2143(I)(c)). That is, it would have been obvious to one of ordinary skill in the art to use the in view method of calculating between the target component and browser window as described in Koeppel, to aid in selectively displaying content as described in Mitchell. The result of applying the in view methodology of Koeppel to Mitchell would have been predictable to one of ordinary skill in the art—for example, one of ordinary skill in the art would have readily recognized that comparing the coordinates between the target component and browser would allow the invention in Mitchell to determine if additional content should be displayed in the browser window.

Claim 65:

Mitchell teaches ***The method of Claim 23, further comprising:***

- ***by the code, determining, after the advertisement has been rendered in the pre-defined area of the content page, that the pre-defined area is no longer within the visible area of the application window, and in response, taking one or more of the following actions:*** (see Col. 9, ¶ 3 – "Clearly, a user may reduce the size of a browser window after additional content 72 has already been fully displayed. The size of the browser window is typically reduced by pressing a restore/maximize button 74, by dragging a browser window dynamic resize control 76, or by dragging an edge of browser window 60. In response to these actions, the browser program would normally add horizontal and/or vertical scroll bars 68 (if not already provided) as needed to enable the user to view all of the content in each direction in which the full content is no longer displayed. Browser programs are not currently designed to remove any content from the display in an attempt to reduce or eliminate the need for scrolling. In fact, they are specifically designed to automatically provide scrolling, because they currently treat all content equally. To provide greater control over the display of content, the present invention responds to actions that reduce the size of the browsing window below that required to display all of the content without scrolling, by removing additional content 72 from the display, so

that at most, primary content 70 must be scrolled to view all of it.")

- ***causing the rendered advertisement to be removed;*** (see Col. 9, ¶ 3 –"Clearly, a user may reduce the size of a browser window after additional content 72 has already been fully displayed. The size of the browser window is typically reduced by pressing a restore/maximize button 74, by dragging a browser window dynamic resize control 76, or by dragging an edge of browser window 60. In response to these actions, the browser program would normally add horizontal and/or vertical scroll bars 68 (if not already provided) as needed to enable the user to view all of the content in each direction in which the full content is no longer displayed. Browser programs are not currently designed to remove any content from the display in an attempt to reduce or eliminate the need for scrolling. In fact, they are specifically designed to automatically provide scrolling, because they currently treat all content equally. To provide greater control over the display of content, the present invention responds to actions that reduce the size of the browsing window below that required to display all of the content without scrolling, by removing additional content 72 from the display, so that at most, primary content 70 must be scrolled to view all of it.")

- ***sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;*** (see Col. 9, ¶ 3 –"Clearly, a user may reduce the size of a browser window after additional content 72 has already been fully displayed. The size of the browser window is typically reduced by pressing a restore/maximize button 74, by dragging a browser window dynamic resize control 76, or by dragging an edge of browser window 60. In response to these actions, the browser program would normally add horizontal and/or vertical scroll bars 68 (if not already provided) as needed to enable the user to view all of the content in each direction in which the full content is no longer displayed. Browser programs are not currently designed to remove any content from the display in an attempt to reduce or eliminate the need for scrolling. In fact, they are specifically designed to automatically provide scrolling, because they currently treat all content equally. To provide greater control over the display of content, the present invention responds to actions that reduce the size of the browsing window below that required to display all of the content without scrolling, by removing additional content 72 from the display, so that at most, primary content 70 must be scrolled to view all of it.")

- ***sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;***

- ***causing the rendered advertisement to be replaced with new content; and***
- ***causing a counter to stop counting an amount of time that the rendered advertisement was visible.***

Claim 66:

Mitchell teaches ***The method of Claim 23,***

- ***wherein the content page comprises a webpage and the code comprises code embedded in the webpage.*** (see Col. 11 ¶ 1 –"In a preferred embodiment, these instructions are Script code, Such as JavaScript, that are appended to the Web page document containing the requested primary content 70.")

Claim 68:

Koeppel teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, a percentage of the pre-defined area that is at least partially within the visible area of the application window.*** (see [0125]-[0130] –"[0125] In addition, client side script may utilize the coordinate information to determine the proportion of viewable components in relation to the web page 976. This may be done a variety of ways for each edge of the component, and may only be performed when it is determined using functions (5)-(8) that a portion of the component 978 is not in full view. For example, when determining the proportion of a component in view using the bottom coordinate of Web page 976, client side script may perform the following functions: Y proportion-bottom=(Y P2Y –Y C1Y)/H component (9) [0126] Yproportion-bottom shows the ratio of the viewable Y coordinate portion (or height) of component 978 in relation to the total height of the component, for components bounded by the bottom coordinates of Web page 976. Y proportion-top=(Y C2Y –Y P1Y)/H component (10) [0127] Yproportion-top shows the ratio of the viewable Y coordinate portion (or height) of component 978 in relation to the total height of the component, for components bounded by the top coordinates of Web page 976. X proportion-right=(X P1X –Y C1X)W component (11) [0128] Xproportion-right shows the ratio of the viewable X coordinate portion (or width) of component 978 in relation to the total width of the component, for components bounded by the right side coordinates of Web page 976. X proportion-left=(X C1X –Y P1X)/W component (12) [0129] Xproportion-left shows the ratio of the viewable X coordinate

portion (or width) of component 978 in relation to the total width of the component, for components bounded by the left side coordinates of Web page 976. [0130] Functions (9)-(12) are ratio values, and may be converted into percentage values that may not exceed 100%.")

Claim 70:

Mitchell teaches ***The method of Claim 23, wherein causing the advertisement to be rendered in the pre-defined area of the content page comprises:***

- ***retrieving, by the code, one or more content files and rendering the one or more content files in the pre-defined area of the content page.*** (see Col. 11 ¶ 3 –"FIG. 4 illustrates aspects of this preferred embodiment of the present invention in regard to the control objects executed on the Web server. As indicated above, a requested Web page document 130 preferably contains both primary content 70 and script code. However, it may contain only code that refers to another primary document file, or files that contain primary content 70. Preferably, the requested Web page document does not include additional content 72. Instead, additional content 72 is preferably contained in a separate document file. Thus, requested Web page 130 is preferably an active server page (ASP), Common Gateway Interface (CGI) application, or other functional document. Such a document will contain JavaScript, Perl, or other executable code embedded within it. Those skilled in the art will recognize that requested page 130 is not limited only to Internet Web pages, but may be any type of file or other resource that can be requested by a client device for display.")

Claim 72:

Mitchell teaches ***The method of Claim 23,***

- ***wherein the code determines that the pre- defined area of the content page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the pre-defined area of the content page.*** (see Col. 16, ¶ 2 –"FIG. 9 illustrates the logic employed in this embodiment to selectively download and display one or more prioritized content modules. A priority is pre-assigned to each content module available for display of a full Web page, in a block 280. A content module may include only individual display elements, if desired. As in earlier embodiments, the type and version of

the browser program executed on the client device are detected in a block 282, preferably from a user agent string included in a request header transmitted from the client device to a Web server. However, this step also detects the device type, preferably from the header. With this information, browser compatible instructions and the available display area are determined by the Web server control object in a block 284. As discussed above, the available content display area is determined based upon the known area of the requesting browser type and/or client display device. In a block 286, a priority content module is communicated to the browser program with associated browser location coordinates and other attributes, if any. In a preferred embodiment of this logic, determination of known available content display area and selection of priority content is done on Web server before any content module is communicated to the requesting browser program running on the client device." - Determination of known available content display area and selection of priority content is done on Web server before any content module is communicated)

Claim 74:

Koeppel teaches ***The method of Claim 23,***

- ***wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window and scrolling position coordinates of the browser window.*** (see [0084]-[0115]; [0154]-[0155]; ; [0199]-[0202]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2,

XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPl and XP1," and further, "[0098] As shown in FIG. 9B, portion 982 of component 978 is not viewable in Web page 976. User activities such as resizing windows and **scrolling affect the in view portion of Web page 976 and component 978**. Accordingly, to determine what are the actual in view portions of Web page 976 and component 978, the client side script executes known Web-based programming language commands to collect the known current height Hbrowser and width Wbrowser of browser window 974. [0099] Once this information is generated, the client side script may now find the true viewable bottom coordinates YP2 and XP2 and missing coordinate XP1X of coordinate XP1 of the viewable Web page in the viewable browser window 974. [0100] Coordinates YP2 and XP2 are represented in (X,Y) format as: ...[0101] YP2 and XP1X are generated by first performing a pair of functions that adds the current height of the browser window Hbrowser to the Y coordinate of coordinate YP1 and adds the current width Wbrowser to the X coordinate of coordinate YP1, respectively. This is represented by functions (1) and (2) below: ... [0102] Since the coordinates of YP1 and XP1 and coordinate YP2Y are now known, the rest of the coordinates for YP2 and XP2 can be calculated using conditions (A), (B) and (D). [0103] Next, the client side script executes commands to calculate the coordinates of target component 978 within Web page 974. Coordinates YC1 and XC1 represent

the coordinates of the top of component 978. ... [0105] Since the component was generated in the Web page at Web server 110, the **position of component 978 in relation to Web page 976 may be determined** during client side scripting known in the art. For example, if it is known that the component is 100 pixels down from the top edge of Web page 976 and 100 pixels from the left edge of Web page 976, the actual coordinates of YC1 of component 978 in relation to browser window 974, which is in relation to display 970, may be calculated as follows: ... and further, "[0199] The above may be implemented by injecting a tail into a web page. Alternatively the object may already be present in the browser or may arrive from any other source. If the object arrives with the page, then typically it is in the form of Javascript embedded within the page, such as a Java object." – Thus, **scrolling affects the in view portion of Web page 976 and component 978**, and the **position of component 978 in relation to Web page 976 may be determined** and calculated according to the given method.)

Claims 67, 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al., (IDS) U.S. Patent No. US 6,983,331 B1 (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 A1 (hereinafter, "Koeppel"), and further in view of Takeshima et al., U.S. Pub. No. 2008/0092078 A1 (hereinafter, "Takeshima").

Claim 67:

Mitchel in view of Koeppel teaches, "wherein determining that the pre-defined area of the content page is either at least partially within a visible area of a application window on a display device or is within a pre-defined distance outside of the visible area of the application window..." (see claim 23 above). Mitchell in view of Koeppel does not explicitly teach, but Takeshima does teach that the determination of the pre-defined area comprises, ***"determining, by the code, a scrolling position of the application window on the display device."*** However, Takeshima discloses this concept (see Abstract; [0041]-[0042] –"[0041] The scroll position change input unit 106 acquires information indicating a change in scroll position when the scroll position has been changed. The change information indicates, for example, the changed scroll position. The current scroll position memory 107 stores the current scroll position by acquiring the change information from the scroll position change input unit 106. The scroll position history memory 108 acquires

the current scroll position from the current scroll position memory 107, and stores it as a history. Whenever change information is acquired, the scroll position history memory 108 stores, for example, the time at which the change information is acquired, and the scroll position at the time. The scroll position will be described later with reference to FIG. 3. [0042] The scroll position estimation unit 113 estimates future scroll positions using the history of past scroll positions stored in the scroll position history memory 108. The estimated-scroll-position memory 114 stores the scroll position estimated by the scroll position estimation unit 113.")

The claimed invention and the cited references, Mitchell, in view of Koeppel, and Takeshima, are analogous art pertaining to electronic document processing. Further, the claimed invention and cited references are analogous art pertaining to content rendering including, for example, advertising content. Further still, the claimed invention and cited references are analogous art pertaining to in-view determinations during browsing activity and/or content positioning according to in-view data.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Mitchell, Koeppel, and Takeshima, to modify the in view content determination methodology of Mitchell and Koeppel to include the ability to track scrolling positions as in Takeshima. One of ordinary skill in the art would have readily recognized that the scroll position and in-view determinations during browsing activity of Takeshima would allow the invention in Mitchell in view of Koeppel, to determine if additional content can or should be displayed in the browser window for the various motivations found in Takeshima (e.g., par. 0007 discusses the need to control the order of visualization order; par. 0008 discusses updating the display area via a button when a user scrolls; par. 0022 discusses display object importance based on scroll position).

Therefore, it would have been obvious to combine Michell in view of Koeppel with Hoshino to obtain the invention as specified in the instant claim(s).

As an alternative argument, Koeppel also meets this limitation (see [0084]-[0115]; [0154]-[0155]; [0199]-[0202]).

Claim 69:

Mitchel in view of Koeppel teaches, "***The method of Claim 23, wherein determining that the pre-***

defined area of the content page is at least partially within the visible area of the application window comprises" (see claim 23 above).

Mitchell in view of Koeppel does not explicitly state where Takeshima DOES teach, "***determining page coordinates of the pre-defined area; determining a scrolling position and the coordinates of the application window; and determining that the page coordinates of the pre-defined area are at least partially within the determined scrolling position and the coordinates of the application window.*** (see Abstract; [0041]-[0042] –"[0041] The scroll position change input unit 106 acquires information indicating a change in scroll position when the scroll position has been changed. The change information indicates, for example, the changed scroll position. The current scroll position memory 107 stores the current scroll position by acquiring the change information from the scroll position change input unit 106. The scroll position history memory 108 acquires the current scroll position from the current scroll position memory 107, and stores it as a history. Whenever change information is acquired, the scroll position history memory 108 stores, for example, the time at which the change information is acquired, and the scroll position at the time. The scroll position will be described later with reference to FIG. 3. [0042] The scroll position estimation unit 113 estimates future scroll positions using the history of past scroll positions stored in the scroll position history memory 108. The estimated-scroll-position memory 114 stores the scroll position estimated by the scroll position estimation unit 113.")

The claimed invention and the cited references, Mitchell, in view of Koeppel, and Takeshima, are analogous art pertaining to electronic document processing. Further, the claimed invention and cited references are analogous art pertaining to content rendering including, for example, advertising content. Further still, the claimed invention and cited references are analogous art pertaining to in-view determinations during browsing activity and/or content positioning according to in-view data.

Thus, the combination of Mitchell, in view of Koeppel, and Takeshima represents the use of a known technique to improve similar devices in the same way (KSR Int'l v. Teleflex Inc., MPEP 2143(I)(c)). That is, it would have been obvious to one of ordinary skill in the art to use the scroll position and in-view determinations during browsing activity as described in Takeshima, to aid in selectively displaying content as described in Mitchell, in view of Koeppel. The result of applying the in view methodology of Takeshima to

Mitchell, in view of Koeppel, would have been predictable to one of ordinary skill in the art. Further, One of ordinary skill in the art would have readily recognized that the scroll position and in-view determinations during browsing activity of Takeshima would allow the invention in Mitchell in view of Koeppel, to determine if additional content can or should be displayed in the browser window for the various motivations found in Takeshima (e.g., par. 0007 discusses the need to control the order of visualization order; par. 0008 discusses updating the display area via a button when a user scrolls; par. 0022 discusses display object importance based on scroll position).

As an alternative argument, Koeppel also meets this limitation (see [0084]-[0115]; [0154]-[0155]; ; [0199]-[0202]).

Claims 71, 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al., (IDS) U.S. Patent No. US 6,983,331 B1 (hereinafter, "Mitchell"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 A1 (hereinafter, "Koeppel"), and further in view of Cohen et al., (IDS) U.S. Pub. No. 2008/0306794 A1 (hereinafter, "Cohen").

Claim 71:

Mitchell teaches ***The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:***

- ***...[a]... ...[b]...***
- ***a type of a browser;*** (see Col. 16, ¶ 2 –"FIG. 9 illustrates the logic employed in this embodiment to selectively download and display one or more prioritized content modules. A priority is pre-assigned to each content module available for display of a full Web page, in a block 280. A content module may include only individual display elements, if desired. As in earlier embodiments, the type and version of the browser program executed on the client device are detected in a block 282, preferably from a user agent string included in a request header transmitted from the client device to a Web server. However, this step also detects the device type, preferably from the header. With this information, browser compatible instructions

and the available display area are determined by the Web server control object in a block 284. As discussed above, the available content display area is determined based upon the known area of the requesting browser type and/or client display device. In a block 286, a priority content module is communicated to the browser program with associated browser location coordinates and other attributes, if any. In a preferred embodiment of this logic, determination of known available content display area and selection of priority content is done on Web server before any content module is communicated to the requesting browser program running on the client device.") (see Col. 11 ¶ 4 –"When a browser program executed on a client device requests Web page 130 from the Web server, the script code within the requested page 130 makes a function call 132 to a selective display control object 134. Selective display control object 134 contains a control function or control method 136 that controls the Web server side operations. Via a data retrieval operation 138, control method 136 retrieves client request header information 140 and communicates the information through a function call 142 to a browser detection sub-object 144. Browser detection sub-object 144 implements a browser detection method 146 that parses and detects the browser properties from client request header information 140. The browser detection method then relays the browser type and version via a function call return 148 back to control method 136. Control method 136 uses the browser type and version to determine the compatible browser instructions that should be appended to requested Web page 130. Control method 136 makes an appropriate function call 150 or 150′, respectively directed to MS Method 152 or Netscape Method 154 (or other), to the appropriate method to retrieve or generate instructions to selectively display additional content in the indicated browser program. The appropriately called method retrieves or generates code compatible with the browser program indicated to be running on the client device. The compatible code is communicated via a function return 156 and added to requested page 130 as browser compatible script 158. The modified page is then communicated back to the browser on the client device over the Internet or other network that connects the server with the client device.")

- ***a version of a browser; and*** (see Col. 11 ¶ 4 –"When a browser program executed on a client device requests Web page 130 from the Web server, the script code within the requested page 130 makes a function call 132 to a selective display control object 134. Selective display control object 134 contains a control function or control method 136 that controls the Web server side operations. Via a data retrieval operation 138, control method 136 retrieves client request header information 140 and communicates the information

through a function call 142 to a browser detection sub-object 144. Browser detection sub-object 144 implements a browser detection method 146 that parses and detects the browser properties from client request header information 140. The browser detection method then relays the browser type and version via a function call return 148 back to control method 136. Control method 136 uses the browser type and version to determine the compatible browser instructions that should be appended to requested Web page 130. Control method 136 makes an appropriate function call 150 or 150′, respectively directed to MS Method 152 or Netscape Method 154 (or other), to the appropriate method to retrieve or generate instructions to selectively display additional content in the indicated browser program. The appropriately called method retrieves or generates code compatible with the browser program indicated to be running on the client device. The compatible code is communicated via a function return 156 and added to requested page 130 as browser compatible script 158. The modified page is then communicated back to the browser on the client device over the Internet or other network that connects the server with the client device.")

- ***a list of other content already rendered on the content page.***

Cohen teaches:

- ***...[a]... an operating system running on the display device;...[b]...*** (see Abstract – "A system estimates the part of a current content page that is currently visible on a user screen. A movement detection unit detects movement of the content page within the user's browser, and an estimator infers whether a particular content item of interest is within the currently visible area. The movement detection unit in one version detects operating system directives to find out whether the user is scrolling etc through the page. Alternatively an identifiable point is placed on the content item and continual measurement is made between identifiable point in the content and a point in the currently visible area. The system is useful for providing statistical data about the effectiveness of advertisement placement within web pages.")

The claimed invention and the cited references, Mitchell, in view of Koeppel, and Cohen, are analogous art pertaining to electronic document processing. Further, the claimed invention and cited references are analogous art pertaining to content rendering including, for example, advertising content.

Further still, the claimed invention and cited references are analogous art pertaining to in-view determinations during browsing activity and/or content positioning according to in-view data.

Thus, the combination of Mitchell, in view of Koeppel, and Cohen represents the use of a known technique to improve similar devices in the same way (KSR Int'l v. Teleflex Inc., MPEP 2143(I)(c)). That is, it would have been obvious to one of ordinary skill in the art to use the advertising content positioning and in-view determinations during browsing activity as described in Cohen, to aid in selectively displaying content as described in Mitchell, in view of Koeppel. The result of applying the in view methodology of Cohen to Mitchell, in view of Koeppel, would have been predictable to one of ordinary skill in the art—for example, one of ordinary skill in the art would have readily recognized that the advertising content positioning and in-view determinations during browsing activity of Cohen would allow the invention in Mitchell, in view of Koeppel, to determine if advertising content should be displayed in the browser window and/or its positioning.

Claim 73:

Cohen teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, an amount of time that the advertisement is at least partially visible on the display device.*** (see [0162]-[0169] –"[0162] Reference is now made to FIG. 2, which is simplified diagram illustrating apparatus 20 for measuring on-screen content item effectiveness according to a first preferred embodiment of the present invention. In the diagram, a movement detection unit 22 detects movement of the content page within the user client, using for example one of a number of techniques explained below, and an estimator 24, is associated with the movement detection unit. The estimator uses movement information from the movement detector 22 to infer whether the content item 14 is within the currently visible area 10. From that it is able to provide data as to how long individual items of advertising content remain in view, that is the advertisement exposure time, and is thus able to provide advertisers with feedback as to good and bad locations on a website, as will be explained in greater detail below," and further, "[0169] The focusing unit can be used to determine whether a particular user has paid attention to a particular article or the like that he is supposed to read. For example the focusing unit may indicate whether students have read a particular text that has been set for them. In addition the focusing unit can determine

that a particular part of the article received particular attention. Thus it may be apparent that a particular part was especially difficult or especially interesting, information which can be useful when subsequently reviewing the website. In order to obtain such information the web page may be divided into a grid, as will be discussed in greater detail below. The grid may be a uniform grid or the page may be defined based on logical units of the content, as preferred. The system determines which areas of the grid were visible for how long and/or which areas of the grid had high levels of focus when visible. The grid is particularly useful where the analysis required is of the actual content of the web page and not of specific items on the page such as advertisements. The grid can also be used to analyze how long certain areas have been out of view and delays until they return to view, as will be discussed in greater detail below.")

The claimed invention and the cited references, Mitchell, in view of Koeppel, and Cohen, are analogous art pertaining to electronic document processing. Further, the claimed invention and cited references are analogous art pertaining to content rendering including, for example, advertising content. Further still, the claimed invention and cited references are analogous art pertaining to in-view determinations during browsing activity and/or content positioning according to in-view data.

Thus, the combination of Mitchell, in view of Koeppel, and Cohen represents the use of a known technique to improve similar devices in the same way (KSR Int'l v. Teleflex Inc., MPEP 2143(I)(c)). That is, it would have been obvious to one of ordinary skill in the art to use the advertising content positioning and in-view determinations during browsing activity as described in Cohen, to aid in selectively displaying content as described in Mitchell, in view of Koeppel. The result of applying the in view methodology of Cohen to Mitchell, in view of Koeppel, would have been predictable to one of ordinary skill in the art—for example, one of ordinary skill in the art would have readily recognized that the advertising content positioning and in-view determinations during browsing activity of Cohen would allow the invention in Mitchell, in view of Koeppel, to determine if advertising content should be displayed in the browser window and/or its positioning.

Claims 75-77, 79-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta et al., U.S. Pub. US 2004/0205651 A1 (hereinafter, "Dutta"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 A1 (hereinafter, "Koeppel").

Claim 75:

Dutta teaches ***A method comprising***

- ***determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window...*** (Dutta teaches where "*a pre-defined area of a content page is either at least partially within a visible area of an application window*" at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

Koeppel teaches:

- ***... by comparing coordinates of the pre-defined area with coordinates of the application window;*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally,

FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] – "Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

- ***and by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.*** (see [0152] – "Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed

against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Dutta and Koeppel are analogous art pertaining to electronic document processing. Further, Dutta and Koeppel are analogous art pertaining to user action determining monitoring. Further still, Dutta and Koeppel are analogous art pertaining to user action determining monitoring, including tracking user's scrolling position and window view.

It would have been obvious to one of ordinary skill at the time of invention to combine the teachings of Dutta and Koeppel for purposes such as to more distinctly understand known methods regarding user action/focus monitoring. Dutta already calls for tracking and monitoring user scrolling and window coordinate/views. Koeppel more distinctly describes tracking and monitoring user scrolling and window coordinate/views, as well as more distinctly describes applications regarding these methods. Thus, one of ordinary skill in the art would have been readily prompted to look to Koeppel from Dutta, for this distinct understanding.

Claim 76:

Koeppel teaches ***The method of Claim 75, wherein the first action comprises one or more of the following:***

- ***causing an advertisement to be rendered on the content page;*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity

180 where the content is created and sent to Web server 110.")

- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] – "Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (see [0153] – "Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

Claim 77:

Koeppel teaches ***The method of Claim 75, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed;*** (see [0084]-[0115]; [0154]-[0155]; – "[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display

970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage

characteristic.")

- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;*** (see [0015] –"Advertisements are adjusted by replacing the presented advertisement with another image/text object stored in a database. That is, when a target advertisement is to be changed, a replacement advertisement image/text object is retrieved from a database and positioned in the accessed Web page the previous advertisement was located. Accordingly, entire banners are replaced each time a new advertisement is needed to target a selected user. Furthermore, when the objects stored in the database are no longer effective, these objects must be modified and updated, which may take a significant amount of time.")
- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0157] –" FIG. 6 is an exemplary flowchart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 79:

Koeppel teaches ***The method of Claim 75, further comprising transmitting data comprising one or more of:***

- ***a time period in which the pre-defined area is at least partially within the visible area of the application window*** (see [0157] –" FIG. 6 is an exemplary flowchart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a time period in which the application window is the primary window open on the display device;***

- ***a proportional extent to which the pre-defined area is at least partially within the visible area of the application window;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150,

with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***an indication of whether the application window is obstructed from view on the display device by another application window;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows.

Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***an identification of a viewer;***
- ***a geographic location;***
- ***a type of the application;***
- ***an identification of an operating system of the display device;***
- ***a view event duration;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***a view event time;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150,

with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a content rendering frequency;*** (see [0157] –" FIG. 6 is an exemplary flowchart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user

response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a content rendering reach;***
- ***a viewer click-activity with respect to one or more content files rendered in the a pre- defined area;*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***dimension of the visible area;*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***dimension of the application window;*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing

applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***a scrolling position of the application window;*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing

while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***and an in-focus status of the application window.*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number

of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YP1 and XP1.")

Claim 80:

Dutta teaches ***One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:***

- ***determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window…*** (Dutta teaches where "*a pre-defined area of a content page is either at least partially within a visible area of an application window*" at [0009]-[0010], Figs. 5A & 5B. Dutta

teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

Koeppel teaches:

- ***… by comparing coordinates of the pre-defined area with coordinates of the application window;*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is

located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YP1 and XP1.")

- ***taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")
- ***and taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Dutta and Koeppel are analogous art pertaining to electronic document processing. Further, Dutta and Koeppel are analogous art pertaining to user action determining monitoring. Further still, Dutta and Koeppel are analogous art pertaining to user action determining monitoring, including tracking user's scrolling position and window view.

It would have been obvious to one of ordinary skill at the time of invention to combine the teachings of Dutta and Koeppel for purposes such as to more distinctly understand known methods regarding user action/focus monitoring. Dutta already calls for tracking and monitoring user scrolling and window coordinate/views. Koeppel more distinctly describes tracking and monitoring user scrolling and window

coordinate/views, as well as more distinctly describes applications regarding these methods. Thus, one of ordinary skill in the art would have been readily prompted to look to Koeppel from Dutta, for this distinct understanding.

Claim 81:

Koeppel teaches ***The media of Claim 80, wherein the first action comprises one or more of the following:***

- ***causing one or more content files to be rendered on the content page;*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")
- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")
- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside***

of the visible area of the application window. (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

Claim 82:

Koeppel teaches ***The media of Claim 80, wherein the one or more content files are operable, when rendered on the content page, to display one or more of:***

- ***one or more advertisements*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")
- ***a video;*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the

rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

- ***one or more images;*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")
- ***and text.*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

Claim 83:

Koeppel teaches ***The media of Claim 80, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed***
- ***transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0084]-[0115]; [0154]-[0155]; –"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may

be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;*** (see [0015] – "Advertisements are adjusted by replacing the presented advertisement with another image/text object stored in a database. That is, when a target advertisement is to be changed, a replacement advertisement image/text object is retrieved from a database and positioned in the accessed Web page the previous advertisement was located. Accordingly, entire banners are replaced each time a new advertisement is needed to target a selected user. Furthermore, when the objects stored in the database are no longer effective, these objects must be modified and updated, which may take a significant amount of time.")

- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0157] –" FIG. 6 is an exemplary flowchart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta et al., U.S. Pub. US 2004/0205651 A1 (hereinafter, "Dutta"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 A1

(hereinafter, "Koeppel"), in view of and further in view of Takeshima et al., U.S. Pub. No. 2008/0092078 A1 (hereinafter, "Takeshima").

Claim 78:

Mitchel in view of Koeppel teaches, "***The method of Claim 75, wherein determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window comprises***" (see claim 75 above).

Mitchell in view of Koeppel does not explicitly state where Takeshima teaches, "***determining page coordinates of the pre-defined area; determining a scrolling position and coordinates of the application window; and determining that the page coordinates of the pre-defined area are within the determined scrolling position and coordinates of the application window*** (see Abstract; [0041]-[0042] – "[0041] The scroll position change input unit 106 acquires information indicating a change in scroll position when the scroll position has been changed. The change information indicates, for example, the changed scroll position. The current scroll position memory 107 stores the current scroll position by acquiring the change information from the scroll position change input unit 106. The scroll position history memory 108 acquires the current scroll position from the current scroll position memory 107, and stores it as a history. Whenever change information is acquired, the scroll position history memory 108 stores, for example, the time at which the change information is acquired, and the scroll position at the time. The scroll position will be described later with reference to FIG. 3. [0042] The scroll position estimation unit 113 estimates future scroll positions using the history of past scroll positions stored in the scroll position history memory 108. The estimated-scroll-position memory 114 stores the scroll position estimated by the scroll position estimation unit 113.")

The claimed invention and the cited references, Dutta, in view of Koeppel, and Takeshima, are analogous art pertaining to electronic document processing. Further, the claimed invention and cited references are analogous art pertaining to content rendering including, for example, advertising content. Further still, the claimed invention and cited references are analogous art pertaining to in-view determinations during browsing activity and/or content positioning according to in-view data.

Thus, the combination of Dutta, in view of Koeppel, and Takeshima represents the use of a known technique to improve similar devices in the same way (KSR Int'l v. Teleflex Inc., MPEP 2143(I)(c)). That is, it would have been obvious to one of ordinary skill in the art to use the scroll position and in-view determinations during browsing activity as described in Takeshima, to aid in selectively displaying content as described in Dutta, in view of Koeppel. The result of applying the in view methodology of Takeshima to Dutta, in view of Koeppel, would have been predictable to one of ordinary skill in the art. Further, one of ordinary skill in the art would have readily recognized that the scroll position and in-view determinations during browsing activity of Takeshima would allow the invention in Mitchell in view of Koeppel, to determine if additional content can or should be displayed in the browser window for the various motivations found in Takeshima (e.g., par. 0007 discusses the need to control the order of visualization order; par. 0008 discusses updating the display area via a button when a user scrolls; par. 0022 discusses display object importance based on scroll position).

As an alternative argument, Koeppel also meets this limitation (see [0084]-[0115]; [0154]-[0155]; ; [0199]-[0202]).

Conclusion

Examiner notes that any reference to specific figures, columns and lines should not be considered limiting in any way, and that each entire reference is considered to provide disclosure relating to the claimed invention. Therefore, each piece of cited relevant art must be considered in entirety.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN JOSEPH whose telephone number is (571) 270-7591. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kavita Padmanabhan can be reached on (571) 272-8352. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully,

/SHAWN S JOSEPH/
Primary Examiner, Art Unit 2176

Doc Code: N572

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/316,781	12/16/2008	Brad Krassner	082097.0108

CONFIRMATION NO. 2529

OC000000103118655

RealVu
1590 Hanover Drive
Salt Lake City, UT 84103

Cc: JONES IP GROUP
2500 DALLAS PARKWAY, SUITE 550
PLANO, TX 75093

Date Mailed: **10/17/2018**

DENIAL OF REQUEST FOR POWER OF ATTORNEY

The request for Power of Attorney filed **10/09/2018** is acknowledged. However, the request cannot be granted at this time for the reason stated below.

- ☐ The Power of Attorney you provided did not comply with the new Power of Attorney rules that became effective on June 25, 2004. See 37 CFR 1.32.
- ☐ The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.
- ☐ The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73 has not been received.
- ☐ The person signing for the assignee has omitted their empowerment to sign on behalf of the assignee.
- ☐ The inventor(s) is without authority to appoint attorneys since the assignee has intervened as provided by 37 CFR 3.71.
- ☐ The signature(s) of _____ , a co-inventor in this application, has been omitted. The Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor(s).
- ☐ The person(s) appointed in the Power of Attorney is not registered to practice before the U.S. Patent and Trademark Office.
- ☐ Only one Customer Number can be designated for the Power of Attorney in an application. The Customer Number that was captured is the first Customer Number provided on the Power of Attorney document.

Doc Code: N572

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☐ A request under 37 CFR 1.48 to add an inventor was granted in this application, however, no power of attorney consistent with the power of attorney granted by the originally named inventive entity has been received. Thus, the addition of the inventor has resulted in the loss of power of attorney in the application. See 37 CFR 1.32(e).

☑ The power of attorney has not been accepted because the party who is giving power of attorney has not been identified. Power of attorney may only be signed by the applicant for patent (37 CFR 1.42) or the patent owner. A patent owner who was not the applicant must appoint any power of attorney in compliance with 37 CFR 3.71 and 3.73. See 37 CFR 1.32(b)(4).

☐ The power of attorney from the inventors has not been accepted because it is a copy from a prior national application for which benefit is claimed and the continuing application names an inventor who was not named as an inventor in the prior application.

☐ The power of attorney from the inventors has not been accepted because the power of attorney must be signed by the applicant for patent. See 37 CFR 1.32(b)(4).

☑ Any request to correct or update the name of the applicant must include an application data sheet (ADS) in compliance with 37 CFR 1.76 specifying the correct or updated name of the applicant in the applicant information section. Any request to change the applicant after an original applicant has been specified under 37 CFR 1.46(b) must include a new ADS in compliance with 37 CFR 1.76 specifying the applicant in the applicant information section and comply with 37 CFR 3.71 and 3.73. See 37 CFR 1.46(c).

Any inquiries regarding this notice should be directed to the Application Assistance Unit at 571-272-4200.

WB

Application Assistance Unit
571-272-4200

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/316,781	12/16/2008	Brad Krassner	082097.0108

CONFIRMATION NO. 2529

RealVu
1590 Hanover Drive
Salt Lake City, UT 84103

MISCELLANEOUS NOTICE

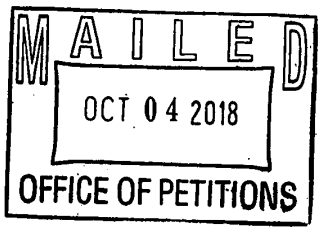
OC000000103118655

Date Mailed: 10/17/2018

A communication which cannot be delivered in electronic form has been mailed to the applicant.

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RealVu
1590 Hanover Drive
Salt Lake City UT 84103

In re Application of	:	
BRAD KRASSNER, ET AL.	:	DECISION ON REQUEST TO
Application No.: 12/316,781	:	WITHDRAWAL AS ATTORNEY/AGENT
Filed: December 16, 2008	:	OF RECORD
Attorney Docket No.: 082097.0108	:	

This is a decision in response to the Request To Withdraw As Attorney Or Agent And Change Of Correspondence Address Under 37 CFR §1.36, filed April 30, 2018.

The request is **DISMISSED AS MOOT**.

The request filed by EFS on April 30, 2018 is **dismissed as moot** because an e-petition Requesting Withdraw As Attorney Or Agent And Change Of Correspondence Address Under 37 CFR §1.36 was also filed by EFS and **auto-granted** on September 28, 2018.

Any questions concerning this decision may be directed to the undersigned at (571) 272-3213.

/Cheryl Gibson-Baylor/
Cheryl Gibson-Baylor
Petitions Paralegal Specialist
Office of Petitions

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P.O. Box 1450
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Decision Date : September 28, 2018

In re Application of :

Brad Krassner

Application No : 12316781

Filed : 16-Dec-2008

Attorney Docket No : 082097.0108

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 28, 2018

The request is **APPROVED.**

The request was signed by Bradley P. Williams (registration no. 40227) on behalf of all attorneys/agents associated with Customer Number 05073 . All attorneys/agents associated with Cusotmer Number 05073 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71(for applications filed before September 16, 2012) or the applicant (for applications filed on or after September 16, 2012), with correspondence address:

Name	RealVu
Name2	
Address 1	1590 Hanover Drive
Address 2	
City	Salt Lake City
State	UT
Postal Code	84103
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 (for applications filed before September 16, 2012) or the applicant (for applications filed on or after September 16, 2012)of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	12316781
Filing Date	16-Dec-2008
First Named Inventor	Brad Krassner
Art Unit	2176
Examiner Name	SHAWN JOSEPH
Attorney Docket Number	082097.0108
Title	Content rendering control system and method

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 05073

The reason(s) for this request are those described in 37 CFR:

11.116(a)(1)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71(for applications filed before September 16, 2012) or the applicant (for applications filed on or after September 16, 2012):

Name	RealVu
Address	1590 Hanover Drive
City	Salt Lake City
State	UT
Postal Code	84103
Country	US

Duration Media Ex-1085

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Bradley P. Williams/
Name	Bradley P. Williams
Registration Number	40227

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	082097.0108	2529

5073 7590 09/14/2018

BAKER BOTTS L.L.P.
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EXAMINER	
JOSEPH, SHAWN S	

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
09/14/2018	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRAD KRASSNER et al.

Appeal 2017-011786
Application 12/316,781
Technology Center 2100

ERRATUM

The Decision on Appeal for the above-identified application mailed July 17, 2018 contains an error. The sentence beginning on page 5, line 15 is amended to read as follows:

> Specifically, Appellants contend that claim 75, on the one hand, "requires taking the second action when the pre-defined area is not at least partially visible (i.e[.], no portion of the pre-defined area is visible)," but Koeppel, on the other hand "merely disclose[s] determining that a component is less than 100% visible (but is at least partially visible) and then generating an in view percentage characteristic." App. Br. 14–15.

If there any questions pertaining to this Erratum, please contact the Patent Trial and Appeal Board at 571-272-9797.

BAR

Duration Media Ex-1085

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	082097.0108	2529

5073 7590 07/17/2018

BAKER BOTTS L.L.P.
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EXAMINER	
JOSEPH, SHAWN S	

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
07/17/2018	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
ptomail2@bakerbotts.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRAD KRASSNER, NIKOLAI MENTCHOUKOV, ALAN EDWARDS, and IGOR TCHIBIREV

Appeal 2017-011786
Application 12/316,781
Technology Center 2100

Before ERIC B. CHEN, BARBARA A. BENOIT, and MICHAEL M. BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants[1] appeal under 35 U.S.C. § 134(a) from a final rejection of claims 23 and 65–83, which are all the pending claims. Claims 1–22 and 24–64 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.[2]

---

[1] Appellants identify Rich Media Club, LLC as the real party in interest. App. Br. 2.

[2] As discussed *infra* in "The Nonstatutory Double Patenting Rejection" section of the Analysis, because previously pending claims from a related patent application used by the Examiner for a provisional rejection for nonstatutory double patenting no longer are pending (and those then-pending claims differ from the claims of the patent that issued from that application), we do not address that rejection.

Introduction

> The present invention is a system and method for delivering and rendering content automatically and only when and/or to the extent that a pre-defined area of the content page is within the viewer's browser window dimensions and scrolling position, or within a pre-defined distance from the viewer's browser window dimensions and scrolling position.

Spec. ¶ 7 (Summary of the Invention).

Claim 23 is illustrative (shown with a disputed limitation in *italics)*:

> 23. A method comprising:
>
> determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;
>
> *causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*

App. Br. 19 (Claims App'x).

Rejections

The Examiner rejected claims 23 and 65–83 for nonstatutory double patenting over claims 73, 75, 76, 88, 90–92, 95–97, 100, 102, 103, 105–112, and 114–122 of Application No. 13/731,742.[3] Final Act. 2–10.

Claims 23 and 65–83 stand rejected under 35 U.S.C. § 102(b) as anticipated by Koeppel et al. (US 2005/0177401 A1; Aug. 11, 2005). Final Act. 4–46.

---

[3] The cited application is no longer pending; it issued as US 9,824,074 B2.

Claims 23 and 65–83 stand rejected under 35 U.S.C. § 103 as unpatentable over Koeppel and Dutta et al. (US 2004/0205651 A1; Oct. 14, 2004). Final Act. 46–91.

ANALYSIS

The 35 U.S.C. §§ 102 and 103 Rejections of Claim 23

For both the § 102 anticipation rejection and the § 103 obviousness rejection of claim 23, the Examiner makes identical findings for how Koeppel discloses or teaches the disputed limitation identified above. *See* Final Act. 5–6, 48–49 (both citing Koeppel ¶ 170).[4] Appellants argue the Examiner errs in both rejections because

> *Koeppel* and the proposed *Dutta–Koeppel* combination fail[] to disclose, teach, or suggest, "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the predefined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited.

App. Br. 9. Specifically, Appellants contend the Examiner errs because any advertisement in Koeppel "is displayed in *a new webpage on a subsequent visit,* not in 'the pre-defined area' that is determined to be 'either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window,[']as required." App. Br. 13 (citing Koeppel ¶¶ 38–39).

The Examiner responds that claim 23 does not preclude causing the advertisement to be rendered in "the pre-defined area" on a subsequent visit.

---

[4] We have considered all of the Examiner's findings and reasons in the rejection and Answer and find it unnecessary to respond to every issue raised by the Examiner with which we disagree (e.g., the issue of whether certain limitations may be read out of the claims (*see* Final Act. 4, 6)).

"For example, during that 'subsequent visit,' the user's 'in view collection process' . . . occurs, and 'the in view status of a target component' is determined." Ans. 15. As Appellants reply, however, and we agree, the Examiner's new finding in the Answer runs afoul of the antecedent basis requirements of claim 23, which requires "determining" . . . whether **a pre-defined area of a content page** is either at least partially within a visible area of an application window" and "causing an advertisement to be rendered in **the pre-defined area of the** content page." Reply Br. 4–5.

Koeppel teaches monitoring what is "in view" during a user session and then using that information for updating Web pages for future user sessions, including using the "in view" information in the selection of advertisements for rendering in the subsequent Web pages. *See* Koeppel ¶¶ 38–40, 57. The disputed limitation, on the other hand, requires rendering an advertisement in the same area of the same content page that is at least partially within the visible area (or within a predefined distance), which is the same content page used in the determining step. Thus, Koeppel's teaching of providing an advertisement in a subsequently updated Web page does not teach or suggest "causing an advertisement to be rendered in the pre-defined area of the content page," as recited. Accordingly, we agree with Appellants the Examiner errs in finding Koeppel discloses, teaches, or suggests the disputed limitation.

Therefore, we do not sustain the 35 U.S.C. §§ 102 and 103 rejections of independent claim 23. We also, accordingly, do not sustain the §§ 102 and 103 rejections of its dependent claims 65–74.

The 35 U.S.C. §§ 102 and 103 Rejections of Claims 75 and 80

In the 35 U.S.C. §§ 102 and 103 rejections of claims 75 and 80, the Examiner makes identical findings for how Koeppel discloses or teaches the disputed limitation of "taking a second action in response to determining that the predefined area is not at least partially within the visible area of the application window, the second action being different from the first action," as recited in both claims (*see* App. Br 21, 24 (Claims App'x)). Final Act. 22, 40–41, 65–66, 85 (all citing Koeppel ¶ 152). Appellants argue the Examiner errs because—

> *Koeppel* and the proposed *Dutta–Koeppel* combination fail[] to disclose, teach, or suggest, "***taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action***," as recited.

App. Br. 14; *see also id.* at 15 *and* Reply Br. 8–10. Specifically, Appellants contend that claim 23, on the one hand, "requires taking the second action when the pre-defined area is not at least partially visible (i.e[.], no portion of the pre-defined area is visible)," but Koeppel, on the other hand "merely disclose[s] determining that a component is less than 100% visible (but ***is*** at least partially visible) and then generating an in view percentage characteristic." App. Br. 14–15.

Appellants' argument is unpersuasive. Appellants construe Koeppel too narrowly. As the Examiner responds, and we agree, "[n]owhere does Koeppel require, or restrict, that the component be 'at least partially visible.'" Ans. 18. An ordinarily skilled artisan would have understood that the "in view" percentage of Koeppel can be zero, which correlates to, in the vernacular of claims 75 and 80, the "predefined area of a content page"

being "not at least partially within the visible area of the application window," as recited.

Koeppel describes triggering the "in view collection process" in multiple ways, e.g., based on the occurrence of loading a Web page, or on detecting scrolling or resizing of the Web browser. *See* Koeppel ¶ 87. Based on such triggers, Koeppel's system "begins to collect in view characteristic data . . . to determine the in view status of a target component." *Id.* Regardless that Koeppel primarily discusses partially viewable target components (*see* Koeppel ¶¶ 84 *et seq.*), ordinarily skilled artisans would have understood that "determin[ing] the in view status of a target component" (¶ 87) also includes making the determination for a target component that is either fully inside or outside of the viewable area. Koeppel specifically notes the "view data collected" includes "information such as data indicating whether content is actually viewable." Koeppel ¶ 154. For a not-in-view target component, consistent with Koeppel's disclosed formulae, the calculated in view percentage will simply be zero. We also note the "taking a second action in response" requirement of the disputed limitation reads on Koeppel's action of sending data related to the indication that the content is not in view to a Web server. *See* Koeppel ¶ 154–55.

Accordingly, Appellants' arguments do not persuade us of Examiner error in the 35 U.S.C. §§ 102 and 103 rejections of claims 75 and 80. Thus, we sustain the §§ 102 and 103 rejections of claims 75 and 80, and of their dependent claims 76, 77, 79, and 81–83, for which Appellants offer no separate arguments.

The 35 U.S.C. §§ 102 and 103 Rejections of Claims 67, 69, and 78

Dependent claims 67, 69, and 78 each include a requirement for determining a scrolling position of an application window, for which the Examiner's 35 U.S.C. §§ 102 and 103 rejections rely on Koeppel. *See* Final Act. 11–12, 14–15, 27–28, 54–55, 57–58, 71–72 (all identically citing Koeppel ¶¶ 85–115 (quoting ¶¶ 85–88)). Appellants argue the Examiner errs because, "while the cited portions of *Koeppel* may disclose detecting that a user has scrolled a browser, merely detecting that a user has scrolled a browser does not disclose, teach, or suggest '***determining . . . a scrolling position of the application window on the display device,***' as recited." App. Br. 16.

The Examiner responds that "Appellant provides no explanation or analysis" and the argument "amounts to no more than a mere allegation of patentability." Ans. 21. We disagree with the Examiner. Here, Appellants fairly summarize the relied-on disclosure of Koeppel as "merely detecting that a user has scrolled" and argue, concisely, that detecting the fact of the occurrence of scrolling is not the same as determining a "scrolling position," as recited. App. Br. 16. As Appellants clarify in reply—

> [M]erely detecting that a user is scrolling does not necessarily disclose "determining . . . a scrolling **position**" of an application window. The Examiner does not explain how or where the cited portion of *Koeppel* discloses "determining . . . a scrolling **position**" of an application window. . . . Appellants respectfully note that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." (M.P.E.P. § 2143.03, citing *In re Wilson,* 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Reply Br. 11 (brackets in original).

Appellants' argument is persuasive. The cited portions of Koeppel discuss scrolling as an event that may trigger capture of data, but there is no indication of determining or using any type of scrolling position, as recited in claims 67, 69, and 78. *See* Koeppel ¶¶ 85–115. Accordingly, we do not sustain the 35 U.S.C. §§ 102 and 103 rejections of claims 67, 69, and 78.

The Non-Statutory Double Patenting Rejection

As discussed *supra*, we reverse the Examiner's 35 U.S.C. §§ 102 and 103 rejections, thus leaving the provisional double patenting rejection as the only outstanding rejection. The application used for the nonstatutory double patenting rejection, however, no longer is pending, and the claims of the patent that issued from that application substantively differ from the claims pending at the time of the rejection. In this situation, we leave it to the Examiner to determine whether to withdraw the double patenting rejection or whether a terminal disclaimer would be required for the application to issue as a patent. *See Ex parte Moncla*, 95 USPQ2d 1884 (BPAI 2010) (precedential); *see also* MPEP § 804(I)(A).

DECISION

For the above reasons, we affirm the 35 U.S.C. §§ 102 and 103 rejections of claims 75–77 and 79–83, and we reverse the 35 U.S.C. §§ 102 and 103 rejections of claims 23, 65–74, and 78.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

Doc Code: PET.POA.WDRW
Document Description: Petition to withdraw attorney or agent (SB83)

PTO/AIA/83 (04-13)
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	12/316,781
Filing Date	12/16/2008
First Named Inventor	Brad Krassner
Art Unit	2176; Confirmation #2629
Examiner Name	Joseph, Shawn S.
Practitioner Docket Number	082097.0108

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above-identified patent application, and

☐ all the practitioners of record;

☐ the practitioners (with registration numbers) of record listed on the attached paper(s); or

☒ the practitioners of record associated with Customer Number: 05073

NOTE: The immediately preceding box should only be marked when the practitioners were appointed using the listed Customer Number.

The reason(s) for this request are those described in 37 CFR:

☐ 11.116(a)(1) ☐ 11.116(a)(2) ☐ 11.116(a)(3)
☒ 11.116(b)(1) ☐ 11.116(b)(2) ☐ 11.116(b)(3)
☐ 11.116(b)(4) ☐ 11.116(b)(5) ☐ 11.116(b)(6)
☐ 11. 116(b)(7) Please explain below:

Certifications

Check each box below that is factually correct. WARNING: If a box is left unchecked, the request will likely not be approved.

1. ☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment.

2. ☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled.

3. ☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond.

Please provide an explanation, if necessary:

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/AIA/83 (04-13)
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Name Bradley P. Williams — Registration No. 40227

Address Baker Botts L.L.P., 2001 Ross Avenue, Suite 700

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ON APPEAL FROM THE EXAMINER
TO THE PATENT TRIAL AND APPEAL BOARD**

First Named Inventor:	Brad Krassner et al.
Application No:	12/316,781
Filing Date:	December 16, 2008
Art Unit:	2176
Confirmation No.:	2529
Examiner:	Shawn S. Joseph
Title:	*Content Rendering Control System and Method*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REPLY BRIEF

Pursuant to 37 C.F.R. § 41.41, Appellants respectfully submit this Reply Brief in response to the Examiner's Answer dated July 27, 2017 ("Examiner's Answer").

It is telling that the Examiner's Answer devotes many pages to arguing that certain claim elements are optional and need not be shown in the cited references in making a 102 or 103 rejection. It should not go unnoticed by the Board that it is these very same claim elements that Appellants contend are not disclosed in the prior art. Simply put, beyond the compelling reasons on the merits described in Appellants' Appeal Brief and summarized below that certain claim elements are missing from the cited references, that the Examiner protests so much about having to show these elements in the art demonstrates the weakness of those prior art rejections.

As described below, these claim elements cannot simply be ignored and the prior art rejections are improper because certain claim elements are missing from the cited references.[1]

I. The claims do not recite optional elements that can be ignored by the Examiner.

Appellants maintain that the claims do not recite optional or conditional elements that can be ignored by the Examiner. In the Examiner's Answer, the Examiner mainly argues that certain unclaimed states exist that make claimed dependent actions optional. For example, the Examiner states:

> The claim specifies what should occur "if" either condition A or condition B occurs. However, what does the claim require if neither of "conditions" A, nor B occur? The answer is that it remains unspecified by the claim. As previously given, neither condition A, nor B, is required to occur by the claim. In fact, we will see that certain dependent claims negate at least one of these conditions, proving that the conditions are, in fact, optional.
>
> As it is directly stated in the MPEP, it would be unreasonable and unfair to exclude the case when neither of conditions A, nor B, are met in the current claims environment simply because the claim describes what would occur "if" conditions A or Bare met. (Examiner's Answer, page 7.)

These statements are incorrect for at least three reasons. **First**, none of the independent claims include the conditional "if" language alleged here by the Examiner. As an example, independent Claims 23 requires "determining…***whether*** a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window" and "causing an advertisement to be rendered in the pre-defined area of the content page ***in response to*** determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window." That is, Claim 23 does not recite limitations that are only performed "if" certain conditions occur as alleged by the Examiner. Rather, Claim 23 recites the non-conditional steps of "determining…whether" a pre-defined area of a content page is

[1] The asserted deficiencies in the form of Appellant's Appeal Brief are addressed in the last section of this Reply Brief.

in certain specified states and then "causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that" either state occurs.[2]

Second, the Examiner's argument here and in other locations of the Examiner's Answer that it is "unreasonable and unfair" to exclude certain possible states is irrelevant to whether other claimed steps are optional steps that may be ignored. Appellants are unaware of any rule or requirement that all possible states or cases must be included in a particular claim in order to prevent other steps of the claim from being optional, and the Examiner has not pointed to anything that says otherwise. In the Examiner's Answer, the Examiner appears to cite to M.P.E.P. § 2111.04 to support this assertion that "it would be unreasonable and unfair to exclude the case when neither of conditions A, nor B, are met in the current claims environment simply because the claim describes what would occur "if" conditions A or B are met." (Examiner's Answer, page 7.) However, this portion of the M.P.E.P. does not address excluded cases, and certainly does not state or suggest that "it would be unreasonable and unfair to exclude" certain cases as the Examiner alleges. Rather, M.P.E.P. § 2111.04 states that claim language that "does not require steps to be performed" is optional. (M.P.E.P. § 2111.04.) However, as explained above and in the Appeal Brief, the independent claims require specific steps to be performed (e.g., for Claim 23: "determining…whether" a pre-defined area of a content page is in certain specified states and then "causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that" either state occurs), and thus are not optional language under M.P.E.P. § 2111.04.

Third, it is incorrect that "certain dependent claims negate at least one of these conditions, proving that the conditions are, in fact, optional," as alleged here by the Examiner. Appellants are unaware of any dependent claims that negate any conditions in the independent claims, and the Examiner does not point to any claims whatsoever to support this statement.

[2] Similarly, independent Claim 75 recites the non-conditional steps of "determining…whether" certain states occur and then "taking a first action in response to determining that" either state occurs and "taking a second action in response to determining that" a specified state does not occur. Independent Claim 80, which is a computer-readable media claim, requires software operable to "determine whether" certain states occur and then "taking a first action in response to determining that" either state occurs and "taking a second action in response to determining that" a specified state does not occur.

II. Independent Claim 23 is allowable because the cited references do not disclose causing an advertisement to be rendered in the claimed pre-defined area of a content page.

a. Independent Claim 23 is allowable under section 102 because *Koeppel* does not disclose causing an advertisement to be rendered in the claimed pre-defined area of a content page.

Appellants maintain that independent Claim 23 is allowable at least because *Koeppel* fails to disclose, teach, or suggest, "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23 (emphasis added). In the Examiner's Answer, the Examiner relies on a new portion of *Koeppel* (¶ 87) as allegedly teaching this portion of Claim 23. (Examiner's Answer, page 15.) Specifically, the Examiner states:

> Nothing in the claims precludes "the pre-defined area" from including the Appellant-described, "advertisement displayed .... on a subsequent visit." For example, during that "subsequent visit," the user's "in view collection process" (as described in [0087] of Koeppel, previously cited regarding "coordinates" of the "pre-defined area") occurs, and "the in view status of a target component" is determined. In other words, in this "pre-defined" in view area, content, which includes advertisements, is rendered based on the determination that the "pre-defined area," or portion of the webpage, is in view. Thus, even the Appellant described process from Koeppel meets the claim.

However, this is incorrect for at least two reasons. **First**, the language of Claim 23 *does indeed* require that the claimed advertisement is caused to be rendered in the same "pre-defined area" that is determined to be "either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," and not in a different area on a subsequent content page. This is clearly seen in the antecedent references of Claim 23: "determining...whether **a pre-defined area of a content page** is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window" and "causing an advertisement to be rendered in **the pre-defined area of the**

content page." In other words, if the advertisement was to be rendered in a different "pre-defined area" than the one that is determined to be "either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window" (e.g., on a subsequent visit), the claim would not recite "causing an advertisement to be rendered in **the pre-defined area of the content page**." Instead, for example, it might recite "causing an advertisement to be rendered in a *second* pre-defined area of a *second* content page." But it does not. Claim 23 clearly recites determining whether a pre-defined area is either at least partially within a visible area of an application window or is within a pre-defined distance outside of the visible area, and in response, causing an advertisement to be rendering **in that same pre-defined area of the same content page.**

Second, while the newly-cited portion of *Koeppel* (¶ 87) may disclose an in view collection process, it does not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area [that is determined to be either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window] of the content page***," as recited in Claim 23. According to the newly-cited portion of *Koeppel:*

> [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. (*Koeppel*, ¶ 87.)

That is, while the newly-cited portion of *Koeppel* may disclose determining the in view status of a target component, it does not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that *the pre-*

defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23. Furthermore, the Examiner's statement that "in this 'pre-defined' in view area, content, which includes advertisements, is rendered based on the determination that the 'pre-defined area,' or portion of the webpage, is in view" is incorrect because this new portion of *Koeppel* is completely devoid of any mention whatsoever of rendering anything in the "target component" of *Koeppel*, and it certainly does not mention rendering anything "based on the determination that the 'pre-defined area,' or portion of the webpage, is in view, " as alleged by the Examiner. Consequently, the newly-cited portion of *Koeppel* does not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23. Consequently, *Koeppel* fails to disclose, teach, or suggest each and every element of Claim 23.

For at least these reasons, independent Claim 23 and its dependent claims are allowable under section 102. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

b. Independent Claim 23 is allowable under section 103 because the proposed *Koeppel-Dutta* combination does not disclose causing an advertisement to be rendered in the claimed pre-defined area of a content page.

As stated on page 10 of the Appeal Brief, the Examiner relies solely on ¶ 170 of *Koeppel* as allegedly teaching "causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23. That is, the Examiner relied only on the same exact portion of *Koeppel* for this portion of Claim 23 for both the section 102 and 103 rejections in the Final Office Action, and did not point to any portion of *Dutta* whatsoever for this portion of the claim for his section 103 rejection. (Final Office Action, pages 6 and 48-49.) Furthermore, the Examiner again fails to point to any portion of *Dutta* in the Examiner's Answer for this portion of Claim 23. Therefore, since the cited portions of *Koeppel* fail to disclose this portion of Claim 23 (as shown in Section II above and in Section II of the Appeal Brief), and the Examiner does not cite to any portion of *Dutta* whatsoever for this portion of Claim 23, then it follows that the proposed *Dutta-Koeppel* combination fails to disclose, teach, or suggest each and every element of Claim 23.[3]

For at least these reasons, independent Claim 23 and its dependent claims are allowable under section 103. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

[3] The Examiner's statement that "Appellant simply disqualifies and discards Dutta, and with it, any obviousness analysis" on page 15 of the Examiner's Answer is misleading and inaccurate since the Examiner did not cite to any portion of *Dutta* whatsoever for the limitation under argument. Appellants included the following sentence in their Appeal Brief to address the Examiner's reliance on only *Koeppel* for both the section 102 and 103 rejections: "The cited portions of *Dutta* do not cure these deficiencies of *Koeppel*, and the Examiner does not allege that they do." (Appeal Brief, page 13.)

III. Independent Claims 75 and 80 are allowable because the cited references do not disclose taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window.

a. Independent Claims 75 and 80 are allowable under section 102 because *Koeppel* does not disclose taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window.

Appellants maintain that Independent Claims 75 and 80 are allowable at least because *Koeppel* fails to disclose, teach, or suggest, "***taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action***," as recited, for example, in Claim 75 (emphasis added).[4] In the Appeal Brief, Appellants illustrated on pages 14-15 how the lone cited portion of *Koeppel* (¶¶ 152) fails to disclose this portion of Claim 75 since it discloses that a component is at least partially visible. In the Examiner's Answer, the Examiner responds by stating:

> It is unclear where Appellant gains a basis to conclude that Koeppel's determining "that a portion of component is not in view" is equivalent to "the cited portions of Koeppel merely disclose determining that a component is less than 100% visible (but is at least partially visible) and then generating an in view percentage characteristic." Nowhere does Koeppel require, or restrict, that the component be "at least partially visible." Instead, this is an Appellant-fabricated notion and a mischaracterization of Koeppel. (*Koeppel*, ¶ 152, emphasis added.)

Appellants disagree and respectfully note that the cited portion of *Koeppel* does disclose that the component under analysis is at least partially visible:

> [0152] Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an **in view percentage** characteristic. (*Koeppel*, ¶ 152, emphasis added.)

[4] Appellants thank the Examiner for correctly pointing out the typographical errors in the Appeal Brief regarding this section. (See Examiner's Answer pages 16-17). All references to "Claim 23" in Section III of the Appeal Brief should have been "Claim 75."

In other words, the cited portion of *Koeppel* discloses generating an "in view percentage" which indicates that the component ***is*** at least partially visible. Consequently, *Koeppel* fails to disclose, teach, or suggest, "***taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action***," as recited, for example, in Claim 75 (emphasis added).

For at least these reasons, independent Claim 75 and its dependent claims are allowable under section 102. For at least certain analogous reasons, independent Claim 80 and its dependent claims are also allowable under section 102. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

b. Independent Claims 75 and 80 are allowable under section 103 because the proposed *Dutta-Koeppel* combination does not disclose taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window.

As stated on page 14 of the Appeal Brief, the Examiner points only to ¶ 152 of *Koeppel* as allegedly teaching "taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action," as recited in Claim 75. That is, the Examiner relied solely on the same exact portion of *Koeppel* for this portion of Claim 75 for both the section 102 and 103 rejections in the Final Office Action, and did not point to any portion of *Dutta* whatsoever for this portion of the claim for his section 103 rejection. (Final Office Action, pages 22 and 65-66.) Furthermore, the Examiner again fails to point to any portion of *Dutta* in the Examiner's Answer for this portion of Claim 75. Therefore, since the cited portions of *Koeppel* fail to disclose this portion of Claim 75 (as shown in Section III above and in Section III of the Appeal Brief), and the Examiner does not cite to any portion of *Dutta* whatsoever for this portion of Claim 75, then it follows that the proposed *Dutta-Koeppel* combination fails to disclose, teach, or suggest each and every element of Claim 75.[5]

[5] The Examiner's statement that "the rejection of Claim 75 as obvious over both Dutta and Koeppel, as it was given, remains simply ignored and uncontested" on page 18 of the Examiner's Answer is misleading and inaccurate since the Examiner did not cite to any portion of *Dutta* for the specific limitation under argument.

For at least these reasons, independent Claim 75 and its dependent claims are allowable under section 103. For at least certain analogous reasons, independent Claim 80 and its dependent claims are also allowable under section 103. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

IV. Dependent Claims 67, 69, and 78 are additionally allowable because the cited references do not disclose determining a scrolling position of an application window on a display device.

a. Dependent Claims 67, 69, and 78 are allowable under section 102 because *Koeppel* does not disclose determining a scrolling position of an application window on a display device.

In addition to depending from allowable independent Claim 23, Appellants maintain that dependent Claim 67 is allowable at least because the cited portions of *Koeppel* fail to disclose, teach, or suggest, "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. In the Examiner's Answer, the Examiner responds by stating:

> While Appellant cites large portions of Koeppel and admits, "while the cited portions of Koeppel may disclose detecting that a user has scrolled a browser," it remains unclear why Appellant goes on to conclude, "merely detecting that a user has scrolled a browser does not disclose, teach, or suggest "determining ... a scrolling position of the application window on the display device," as recited in Claim 67." In other words, Appellant provides no explanation or analysis as to why the conclusion is reached, what in the claim is thought to distinguish it from the admitted "scrolling" in Koeppel, or any other inkling as to why he believes these elements are not equivalent. Instead Appellant simply inserts cut-and-paste portions of Koeppel next to cut-and-paste portions of the claims, underlines "scrolling position," and merely insists they are not the same. This amounts to no more than a mere allegation of patentability. (Examiner's Answer, pages 20-21.)

Appellants disagree that they "provide[ed] no explanation or analysis as to why the conclusion is reached, what in the claim is thought to distinguish it from the admitted

---

Appellants included the following sentence in their Appeal Brief to address the Examiner's reliance on only *Koeppel* for both the section 102 and 103 rejections: "The cited portions of *Dutta* do not cure these deficiencies of *Koeppel*, and the Examiner does not allege that they do." (Appeal Brief, page 15.)

'scrolling' in Koeppel," as alleged here by the Examiner. In the Appeal Brief, Appellants stated that "merely detecting that a user has scrolled a browser does not disclose, teach, or suggest "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. (Appeal Brief, page 16.) In other words, merely detecting that a user is scrolling does not necessarily disclose "determining…a scrolling **position**" of an application window. The Examiner does not explain how or where the cited portion of *Koeppel* discloses "determining…a scrolling **position**" of an application window. Indeed it does not. Appellants respectfully note that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." (M.P.E.P. § 2143.03, citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Consequently, *Koeppel* fails to disclose, teach, or suggest each and every element of Claim 67. Accordingly, Appellants respectfully request reconsideration and allowance of this claim.

For at least these reasons, Claim 67 is allowable under section 102. Claims 69 and 78 also recite "determining a scrolling position… of the application window" and are therefore allowable under section 102 for analogous reasons. Accordingly, Appellants respectfully request reconsideration and allowance of Claims 67, 69, and 78.

b. Dependent Claims 67, 69, and 78 are allowable under section 103 because the proposed *Dutta-Koeppel* combination does not disclose determining a scrolling position of an application window on a display device.

As stated on page 15 of the Appeal Brief, the Examiner points only to portions of *Koeppel* as allegedly teaching "determining…a scrolling position of the application window on the display device," as recited in Claim 67. That is, the Examiner relied solely on the same exact same portions of *Koeppel* for this portion of Claim 67 for both the section 102 and 103 rejections in the Final Office Action, and did not point to any portion of *Dutta* whatsoever for this portion of the claim for his section 103 rejection. (Final Office Action, pages 11-12 and 54-55.) Furthermore, the Examiner again fails to point to any portion of *Dutta* in the Examiner's Answer for this portion of Claim 67. Therefore, since the cited portions of *Koeppel* fail to disclose this portion of Claim 67 (as shown in Section IV above and in Section IV of the Appeal Brief), and the Examiner does not cite to any portion of

Dutta whatsoever for this portion of Claim 67, then it follows that the proposed *Dutta-Koeppel* combination fails to disclose, teach, or suggest each and every element of Claim 67.

For at least these reasons, Claim 67 is allowable under section 103. Claims 69 and 78 also recite "determining a scrolling position... of the application window" and are therefore allowable under section 103 for analogous reasons. Accordingly, Appellants respectfully request reconsideration and allowance of Claims 67, 69, and 78.

The Appeal Brief Complies with Applicable Format Regulations

The Examiner alleges in multiple locations in the Examiner's Answer that "Appellant's arguments do not appear to comply with the requirements for Argument in an Appeal Brief." (Examiner's Answer, pages 4-5; *see also* pages 10, 16, and 19.) Specifically, the Examiner cites to 37 CFR 41.37(c)(iv) and states that:

> Thus, "Each ground of rejection contested by appellant must be argued under a separate heading, and each heading shall reasonably identify the ground of rejection being contested (e.g., by claim number, statutory basis, and applied reference, if any)." Instead, however, Appellant batches arguments against various grounds of rejection utilizing various statutory bases, including rejection of claims under both Sections 102 and 103.

(Examiner's Answer, pages 4-5, emphasis omitted.) Appellants first note that they did not receive any Notice of Non-Compliance for the Appeal Brief under 37 CFR 41.37(d). Second, Appellants respectfully note that arguments addressing both section 102 and 103 rejections for a specific limitation of a claim were grouped for the sake of convenience and brevity under a single heading in the Appeal Brief (i.e., Section II on page 9, section III on page 14, and section IV on page 15) because the Examiner relied on the same exact portions of a single reference to reject the specific limitation. Taking Section II as an example, the section 102 and 103 rejections for the limitation of "causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window" of Claim 23 were both addressed in this section since the Examiner relied solely on the same exact portion of

Koeppel for both the section 102 and 103 rejections.[6] (See Final Office Action, pages 6 and 48-49). Therefore, the section heading for this portion of Claim 23 in the Appeal Brief was: "Independent Claim 23 is allowable because *Koeppel* [under section 102] and the proposed *Dutta-Koeppel* combination [under section 103] does not disclose causing an advertisement to be rendered in the claimed pre-defined area of a content page." For clarity and for the convenience of the Board, new sub-headings have been added herein to Sections II, III, and IV to more specifically identify the specific rejections being addressed in that section. The new sub-headings do not included any new arguments first raised in the reply brief.

[6] The same is true for Sections III and IV of the Appeal Brief: the Examiner relied solely on the same exact portions of a single reference for both the section 102 and 103 rejections of the claim limitations addressed in these sections.

Conclusion

The undersigned respectfully submits that the present invention, as claimed, is distinguishable over the references cited by the Examiner. Therefore, the undersigned respectfully requests the Patent Trial and Appeal Board to reverse the final rejection of the Examiner and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

The Commissioner is hereby authorized to charge the $1,000.00 Appeal Forwarding Fee to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P. The Commissioner is also hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Application Number: 12/316,781
Filing Date: December 16, 2008
Appellant(s): KRASSNER ET AL.

_____
Bradley J. Birchfield
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 22, 2017.

(1) Grounds of Rejection to be Reviewed on Appeal

Every ground of rejection set forth in the Office action dated 09/23/2016 from which the appeal is taken is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

NEW GROUNDS OF REJECTION

None.

WITHDRAWN REJECTIONS

None.

(2) Response to Argument

Appellant provides:

Arguments

Claims 23 and 65-83 stand rejected pursuant to the Final Office Action dated 23 September 2016 ("Final Office Action"). For at least the following reasons, Appellants respectfully submit that these rejections are improper and should be reversed by the Board.

The Claims are Allowable over *Koeppel* and the proposed *Dutta-Koeppel* combination

The Examiner rejects Claims 23 and 65-83 under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Publication No. 2005/0177401 ("Koeppel"). The Examiner also rejects Claims 23 and 65-83 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Publication No. 2004/0205651 ("Dutta") in view of Koeppel.

Appellants respectfully submit that these rejections are legally and/or factually deficient and should be reversed by the Board. For example, in rejecting Claims 23 and 65-83 under §§102 and 103, the Examiner relies exclusively upon the teachings of Koeppel and Dutta, but these references fail to disclose, teach, or suggest each and every limitation of the claims.

Examiner Response:

At the outset, we note that Appellant's arguments do not appear to comply with the requirements for Argument in an Appeal Brief:

(iv) Argument. The arguments of appellant with respect to each ground of rejection, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the Record relied on. The arguments shall explain why the examiner erred as to each ground of rejection contested by appellant. Except as provided for in §§ 41.41, 41.47 and 41.52, any arguments or authorities not included in the appeal brief will be refused consideration by the Board for purposes of the present appeal. Each ground of rejection contested by appellant must be argued under a **separate heading**, and **each heading** shall reasonably identify the **ground of rejection** being contested (e.g., by claim number, **statutory basis**, and applied reference, if any). For each ground of rejection applying to two or more claims, the claims may be argued separately (claims are considered by appellant as separately patentable), as a group (all claims subject to the ground of rejection stand or fall together), or as a subgroup (a subset of the claims subject to the ground of rejection stand or fall together). When multiple claims subject to the same ground of rejection are argued as a group or subgroup by appellant, the Board may select a single claim from the group or subgroup and may decide the appeal as to the ground of rejection with respect to the group or subgroup on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately. Under each heading identifying the ground of rejection being contested, any claim(s) argued separately or as a subgroup shall be argued under a separate subheading that identifies the claim(s) by number. A statement

> which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.

Thus, "Each ground of rejection contested by appellant must be argued under a separate heading, and each heading shall reasonably identify the ground of rejection being contested (e.g., by claim number, statutory basis, and applied reference, if any)." Instead, however, Appellant batches arguments against various grounds of rejection utilizing various statutory bases, including rejection of claims under both Sections 102 and 103.

This leaves both Examiner and PTAB to guess which legal standard, for example 'obviousness' vs. 'anticipation,' to apply with each argument.

Already then, Appellant's arguments should be dismissed as failing to meet the requirements for Arguments in an Appeal Brief.

Appellant provides:

> Koeppel merely discloses a server analyzing a user's interaction with a webpage after the user has left the webpage and then serving a modified webpage to the user on subsequent visits based on the analysis. Dutta, on the other hand, merely discloses detecting that a user is focusing on a particular portion of a webpage (e.g., by tracking their eye or mouse movements). As discussed below, neither of these references, taken alone or in combination, discloses, teaches, or suggests "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in independent Claim 23. Similarly, neither of the references, taken alone or in combination, discloses, teaches, or suggests "taking a second action in response to determining that the predefined area is not at least partially within the visible area of the application window," as recited in independent Claims 75 and 80. Finally, neither of the references, taken alone or in

combination, discloses, teaches, or suggests "determining a scrolling position of an application window," as recited in dependent Claims 67, 69, and 78. Appellants respectfully request the Board to reconsider and reverse these rejections.

I. <u>The claims do not recite optional elements that can be ignored by the Examiner.</u>

As an initial matter, the many statements by the Examiner in the Final Office Action alleging that the claims recite optional elements are incorrect. As just one example, the Examiner states:

> Examiner first notes that the language does not require "a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area" to be positively determined, but rather only "determining whether" either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. (Final Office Action, page 4, emphasis in original.)

These and other similar statements by the Examiner in the Final Office Action are incorrect for at least two reasons. **<u>First</u>**, the Examiner is wrong that the above language is conditional or optional. Instead, Claim 23 clearly requires the specific steps of "determining... whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window," and in response, "causing an advertisement to be rendered in the pre-defined area of the content page." This can be summarized with a simple equation for illustrative purposes only: if condition A or condition B is determined to have occurred, then perform an action.

Examiner Response:

Examiner disagrees with Appellant's position that the claim does not recite conditional limitations.

However, Examiner agrees with Appellant's analogy, which clarifies that the language is, indeed, conditional. Appellant himself describes the language in the frame of "conditions" in "if condition A or condition B is determined to have occurred, then perform an action." Appellant's analogy is then, by definition, a conditional. The claim specifies what should occur "if" either condition A or condition B occurs. However, what does the claim require if neither of "conditions" A, nor B occur? The answer is that it remains unspecified by the claim. As previously given, neither condition A, nor B, is required to occur by the claim. In fact, we will see that certain dependent claims negate at least one of these conditions, proving that the conditions are, in fact, optional.

As it is directly stated in the MPEP, it would be unreasonable and unfair to exclude the case when neither of conditions A, nor B, are met in the current claims environment simply because the claim describes what would occur "if" conditions A or B are met.

> "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed." (M.P.E.P. § 2111.04.)

Therefore, it is not that the claim elements have been "ignored," but rather that Appellant has insisted on making the steps optional, weakly specifying actions that only occur "if" a condition is met. Appellant cannot have it both ways then- to argue in an Appeal the restrictive force of the actions that only occur in some cases, but yet continue to claim also those cases when those actions are not required to occur. Appellant was given notice and opportunity to provide claims that do not make the named steps optional, but has declined to do so.

Accordingly, it is the Broadest Reasonable Interpretation of the Appellant-chosen claim language that renders Appellant's position meritless.

Appellant provides:

Continuing this illustration using a car analogy, a similar equation may be: if a dog runs into the street or a person walks across the road, then apply the brakes of the car. In other words, the action (apply the brakes) is performed if either condition is determined to be true (a dog runs into the street or a person walks across the road). In the instant case, the two conditions are: A) a pre-defined area is at least partially within a visible area of an application window on a display device, and B) the pre-defined area is within a pre-defined distance outside of the visible area of the application window. If either conditions A) or B) are determined to have been met, the claim requires "causing an advertisement to be rendered in the pre-defined area of the content page." This is not conditional language but rather requires a specific step to be performed if either of two specific conditions are met.

Examiner Response:

Examiner disagrees.

Here, again, Appellant only further illustrates that the given language is, in fact, conditional language. As Appellant characterizes, "*if either conditions A) or B) are determined to have been met…*" As we can see then, the action is *contingent* on "if" conditions (A) or (B) are met. Since nowhere in the claim is it required that "*conditions*" (A) or (B) are met, the Broadest Reasonable Interpretation continues to include the condition when *neither* (A), nor (B), are met. For example, in the context of the claim, as Appellant provides, conditions (A) and (B) are, "A) a pre-defined area is at least partially within a visible area of an application window on a display device, and B) the pre-defined area is within a pre-defined distance outside of the visible area of the application window." However, a state exists, for example condition (C) when neither is the "pre-defined area… within a pre-defined distance outside of the visible area of the application window," nor is the "pre-defined area… within a pre-defined distance outside of the visible area of the application window," for

example, when the "pre-defined area" is *beyond* a pre-defined distance outside of the visible area of the application window.

In other words, when neither (A), nor (B), are met, the dependent actions are not required to be performed in the claim.

Appellant provides:

> This is in direct contrast to the portion of the M.P.E.P. cited by the Examiner which states that "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed." (M.P.E.P. § 2111.04.)

Examiner Response:

> Examiner disagrees.
> As shown above, this is in direct agreement with the cited portion of the MPEP.

Appellant provides:

> **Second**, the portion of the M.P.E.P. relied upon by the Examiner to support his contention that the "determining whether" language of Claim 23 is optional does not specifically mention "whether" or "determining whether" as being conditional or optional claim language. (See M.P.E.P. § 2111.04.) Furthermore, the Examiner does not cite to any other authority (e.g., M.P.E.P or case law) to support the contention that "whether" or "determining whether" claim language is conditional or optional claim language. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

Examiner Response:

Examiner disagrees.

Appellant omits, from the same paragraph cited, "However, examples of claim language, although not exhaustive, that may raise a question as to the limiting effect of the language in a claim are…"

Thus, the MPEP section's listing is instructive, not exhaustive. Thus the terminology need not be explicitly provided.

Appellant provides:

II. Independent Claim 23 is allowable because Koeppel and the proposed Dutta-Koeppel combination does not disclose causing an advertisement to be rendered in the claimed pre-defined area of a content page.

Examiner Response:

Examiner again notes, Appellant's failure to argue, separately, each ground of rejection according to the statutory basis used, as required for Arguments in an Appeal Brief, again leaves us guessing which legal standard to apply. Since Appellant haphazardly combines arguments against rejections under anticipation and obviousness into one commentary, we are left to suppose what Appellant means to argue, and, effectively to make on behalf of Appellant arguments he failed to make.

Already then, Appellant's arguments should be dismissed as failing to meet the requirements for Arguments in an Appeal Brief.

Appellant provides:

Independent Claim 23 is allowable at least because Koeppel and the proposed Dutta-Koeppel combination fails to disclose, teach, or suggest, "**causing an advertisement to be rendered in the pre-defined area of the content page** in response to determining that **the pre-defined area** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23 (emphasis added). Stated another way, Claim 23 recites determining that a pre-defined area is either at least partially within a visible area of an application window or is within a pre-defined distance outside of the visible area, and in response, causing an advertisement to be rendering i**n that same pre-defined area**.

Examiner Response:

Appellant mischaracterizes the claims. Claim 23 *does not* recite "determining that a pre-defined area is either at least partially within a visible area of an application window or is within a pre-defined distance outside of the visible area, and in response, causing an advertisement to be rendering in that same pre-defined area." Instead, Claim 23 recites, "determining **whether** a pre-defined area is either at least partially within a visible area of an application window or is within a pre-defined distance outside of the visible area, and in response, causing an advertisement to be rendering in that same pre-defined area." We can see now that Appellant *strips away* the language that renders the claim steps optional, as described above, and which has been central in the prosecution. It is revealing that Appellant attempts to *change* the language of the claim now in order to find merit for his argument.

Thus we can see, Appellant is now attempting to argue for language that is not commensurate with the scope of the claims.

Appellant provides:

Because certain embodiments cause advertisements to be rendered in a pre-defined area as described above, "bandwidth and other communications resources are utilized more effectively and efficiently." (Specification, If 8.) In addition, by utilizing certain embodiments, a website publisher can deliver a "viewable impression" (e.g., content that has been at least partially viewed) when required to do so under a contract with an advertiser that requires viewable guarantees. Previously, a website publisher may have delivered advertisement spaces and other content that was never actually viewed (e.g., content that stayed below the "fold" of a web page). This caused the served spaces to not count towards a required viewable guarantee. In addition, this caused unnecessary costs for the website publisher since the served spaces still required computing capacity and network bandwidth to serve. Using certain embodiments of this application, however, a website publisher can meet viewable impression guarantees with advertisers and lower their costs in the process since advertisements and other content may not be served if they will not be at least partially viewed, according to certain embodiments.

The Examiner points only to If 170 of Koeppel as allegedly teaching this portion of Claim 23. (Final Office Action, pages 6 and 48-49.) However, this is incorrect. While the cited portions of Koeppel may disclose advertisements, they do not disclose, teach, or suggest "***causing an advertisement to be rendered <u>in the pre-defined area</u> [that is determined to be either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window] of the content page***," as recited in Claim 23. Figures 17-19 and 70 of the present Application (shown below) illustrate this portion of Claim 23 according to certain embodiments of the disclosure:

FIG. 17-FIG. 19

[0070] FIG. 17 depicts a sample content page as presented to a content page viewer, with the content rendering area of the content page located below the viewer's browser window

> dimensions and scrolling position, noted by an oval indicator. **Content rendering is not yet triggered** because the designated area of the content page that must be within the viewer's browser window dimensions and scrolling position is not yet within such dimensions and scrolling position. FIG. 18 depicts a sample content page with the content rendering area entering the viewer's browser window dimensions and scrolling position. At this point, if content rendering is set to trigger when the designated area of the content page is partially within the viewer's browser window dimensions and scrolling position, the correlator code would proceed to **activate content rendering**. FIG. 19 depicts a sample content page with the content rendering area fully within the viewer's browser window dimensions and scrolling position. As this point, if content rendering is set to trigger when the designated area of the content page is wholly within the viewer's browser window dimensions and scrolling position, the correlator code would proceed to **activate content rendering.**

These portions of the present Application illustrate how certain embodiments "caus[e] an advertisement to be rendered in the pre-defined area [that is determined to be either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window] of the content page," as recited in Claim 23 (emphasis added). The cited portion of Koeppel, on the other hand, simply discloses advertisements:

> [0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110. (Koeppel, 170.)

That is, while the cited portion of Koeppel may disclose advertisement objects on a webpage, it does not disclose, teach, or suggest "causing an advertisement to be rendered in the predefined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the predefined distance outside of the visible area of the application window," as recited in Claim 23. In fact, other portions of Koeppel clearly explain that any provided content (including advertisements) is provided based on

an analysis of a user's actions on a webpage by a server after the user has already left the webpage. That is, content in Koeppel is provided in a modified webpage that is served on a subsequent visit to the webpage, not in ***the pre-defined area*** that is analyzed at the display device displaying the content page:

> [0038] Upon receiving the Web page, each client enables the users to browse the content displayed on the page. The users' behavior in response to the displayed page is monitored at each client node, by capturing events such as mouse movements, scrolling, resizing the browser window, URL selections and/or other similar user initiated events. **The captured events are sent back to the Web server** in response to a detected client side trigger, and the captured event data is stored into a server side data store.
>
> [0039] **An analytical program, executing in the Web server** analyzes the collected user event data to determine the effectiveness of the content presented on the Web page. A middleware program, executing in the Web server, determines the content to serve to the client nodes based on the analysis by the analytical program. **When the Web server receives a subsequent request for the Web page, the Web server serves a modified Web page that includes modified content back to the client nodes as an updated Web page**. The above described process is continuously repeated allowing the present invention to perform automatic analysis on the content presented on Web pages, and dynamically adjust the content to target selected user groups, for the purposes of achieving marketing or advertising goals. (Koeppel, 39, emphasis added.)

In other words, any advertisement displayed in Koeppel is displayed in a new webpage on a subsequent visit, not in "the pre-defined area" that is determined to be "either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window, as required by Claim 23. Consequently, the cited portion of Koeppel does not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23. The cited portions of Dutta do not cure these deficiencies of Koeppel, and the Examiner does not allege that they do. Consequently, Koeppel and the proposed Dutta-Koeppel combination fails to disclose, teach, or suggest each and every element of Claim 23.

Examiner Response:

Here we can see that Appellant, after an earlier error obscuring which statutory basis is being argued, and after another earlier error mischaracterizing the claims, appears to leverage the resulting confusion to ignore Dutta from analysis or consideration beyond merely alleging, "The cited portions of Dutta do not cure these deficiencies of Koeppel." On top of those earlier errors, Appellant appears to merely attack Koeppel from an anticipation standpoint, but excuse himself from considering obviousness or Dutta. Instead, Appellant simply disqualifies and discards Dutta, and with it, any obviousness analysis.

Nonetheless, if we pretend these early errors are without consequence, and we also follow Appellant's lead to ignore Dutta and obviousness, Koeppel still meets the limitation.

Nothing in the claims precludes **"the pre-defined area"** from including the Appellant-described, "advertisement displayed …. on a subsequent visit." For example, during that "subsequent visit," the user's "in view collection process" (as described in [0087] of Koeppel, previously cited regarding "coordinates" of the "pre-defined area") occurs, and "the in view status of a target component" is determined. In other words, in this "pre-defined" in view area, content, which includes advertisements, is rendered based on the determination that the "pre-defined area," or portion of the webpage, is in view. Thus, even the Appellant-described process from Koeppel meets the claim.

Appellant provides:

> **III. <u>Independent Claims 75 and 80 are allowable because Koeppel and the proposed Dutta-Koeppel combination does not disclose taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window.</u>**

Examiner Response:

Examiner again notes, Appellant's failure to argue, separately, each ground of rejection according to the statutory basis used, as required for Arguments in an Appeal Brief, again leaves us guessing which legal standard to apply. Since Appellant haphazardly combines arguments against rejections under anticipation and obviousness into one commentary, we are left to suppose what Appellant means to argue, and, effectively to make on behalf of Appellant arguments he failed to make.

Already then, Appellant's arguments should be dismissed as failing to meet the requirements for Arguments in an Appeal Brief.

Appellant provides:

> Independent Claims 75 and 80 are allowable at least because Koeppel and the proposed Dutta-Koeppel combination fails to disclose, teach, or suggest, "taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action," as recited, for example, in Claim 75 (emphasis added). The Examiner relies only on [0152] of Koeppel as allegedly teaching this portion of Claim 75. (Final Office Action, pages 22 and 65-66.) However, this is incorrect. While the cited portion of Koeppel may disclose determining that a portion of a component is not in view, they do not disclose, teach, or suggest "taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action," as recited in Claim 23. According to the cited portion of Koeppel.

Examiner Response:

Examiner notes, here, Appellant begins the argument by arguing for language from Claims 75 and 80 (unknown grounds of rejection) and ends the same argument by arguing for "Claim 23".

Appellant provides:

> [0152] Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic. {Koeppel,]} 152, emphasis added.)

That is, while the cited portion of Koeppel may disclose generating an in view percentage characteristic if a portion of a component is not in view, it does not disclose, teach, or suggest "taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action," as recited in Claim 23. In other words, while Claim 23 requires taking the second action when the pre-defined area is not at least partially visible (i.e, no portion of the pre-defined area is visible), the cited portions of Koeppel merely disclose determining that a component is less than 100% visible (but is at least partially visible) and then generating an in view percentage characteristic. The cited portions of Dutta do not cure these deficiencies of Koeppel, and the Examiner does not allege that they do. Consequently, Koeppel and the the proposed Dutta-Koeppel combination fails to disclose each and every element of Claim 75.

Examiner Response:

Here again, Appellant switches back and forth from arguing "Claim 23" and "Claim 75." Assuming this is typographical and a result of haphazard construction, we can suppose Appellant means to argue for Claim

75. However, even after guessing that, it is impossible to determine still whether Appellant's arguments are directed at the rejection of Claim 75 under anticipation or obviousness.

Nonetheless, first, visiting the rejection of Claim 75 as obvious over Dutta in view of Koeppel, we see that Appellant omits entirely from analysis or discussion the primary reference, Dutta, beyond merely alleging, "The cited portions of Dutta do not cure these deficiencies of Koeppel." Appellant's piecemeal consideration of Koeppel then cannot possibly overcome this obviousness rejection.

Still, visiting Dutta and Claim 75, we can immediately see that Dutta is cited against "determining…whether a pre-defined area of a content page is… within a predefined-distance outside of the visible area of the application window…" It makes no sense for Appellant to ignore this then. Thus, in actuality, the rejection of Claim 75 as obvious over both Dutta and Koeppel, as it was given, remains simply ignored and uncontested.

Second, Appellant's position relies on the faulty reasoning regarding the conditional limitations, discussed previously.

Third, the logic Appellant applies to Koeppel is also faulty. It is unclear where Appellant gains a basis to conclude that Koeppel's determining "that a portion of component is not in view" is equivalent to "the cited portions of Koeppel merely disclose determining that a component is less than 100% visible (but is at least partially visible) and then generating an in view percentage characteristic." Nowhere does Koeppel require, or restrict, that the component be "at least partially visible." Instead, this is an Appellant-fabricated notion and a mischaracterization of Koeppel.

Appellant provides:

> **IV. Dependent Claims 67, 69, and 78 are additionally allowable because Koeppel and the proposed Dutta-Koeppel combination does not disclose determining a scrolling position of an application window on a display device.**

Examiner Response:

Examiner again notes, Appellant's failure to argue, separately, each ground of rejection according to the statutory basis used, as required for Arguments in an Appeal Brief, again leaves us guessing which legal standard to apply. Since Appellant haphazardly combines arguments against rejections under anticipation and obviousness into one commentary, we are left to suppose what Appellant means to argue, and, effectively to make on behalf of Appellant arguments he failed to make.

Already then, Appellant's arguments should be dismissed as failing to meet the requirements for Arguments in an Appeal Brief.

Appellant provides:

> In addition to depending from allowable independent Claim 23, dependent Claim 67 is allowable at least because the cited portions of Koeppel fail to disclose, teach, or suggest, "determining...a scrolling position of the application window on the display device," as recited in Claim 67. The Examiner relies on Koeppel for this claim, primarily pointing to [0085]-[0088], (Final Office Action, pages 11-12 and 54-55.) However, this is incorrect. While the cited portions of Koeppel may disclose scrolling in a browser, they do not disclose, teach, or suggest "determining...a scrolling position of the application window on the display device," as recited in Claim 67. According to the cited portions of Koeppel.
>
> > [0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974. representing applications running on a client node 150, Window 974 represents a Web browser application being executed at the client node 150. while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view.

> [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160.
>
> [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis.
>
> [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1. {Koeppel,]} 85-88, emphasis in original.)

That is, while the cited portions of Koeppel may disclose detecting that a user has scrolled a browser, merely detecting that a user has scrolled a browser does not disclose, teach, or suggest "***determining...a scrolling position of the application window on the display device***," as recited in Claim 67. The cited portions of Dutta do not cure these deficiencies of Koeppel, and the Examiner does not allege that they do. Consequently, Koeppel and the proposed Dutta-Koeppel combination fail to disclose, teach, or suggest each and every element of Claim 67. Accordingly, Appellants respectfully request reconsideration and allowance of this claim.

Examiner Response:

While Appellant cites large portions of Koeppel and admits, "while the cited portions of Koeppel may disclose detecting that a user has scrolled a browser, " it remains unclear why Appellant goes on to conclude, "merely detecting that a user has scrolled a browser does not disclose, teach, or suggest "determining...a

scrolling position of the application window on the display device," as recited in Claim 67." In other words, Appellant provides no explanation or analysis as to why the conclusion is reached, what in the claim is thought to distinguish it from the admitted "scrolling" in Koeppel, or any other inkling as to why he believes these elements are not equivalent. Instead Appellant simply inserts cut-and-paste portions of Koeppel next to cut-and-paste portions of the claims, underlines "scrolling position," and merely insists they are not the same. This amounts to no more than a mere allegation of patentability.

Appellant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Shawn S. Joseph/

Primary Examiner, Art Unit 2176

Conferees:

/Kavita Padmanabhan/

Supervisory Patent Examiner, Art Unit 2176

/AMY NG/

Supervisory Patent Examiner, Art Unit 2141

Requirement to pay appeal forwarding fee. In order to avoid dismissal of the instant appeal in any application or ex parte reexamination proceeding, 37 CFR 41.45 requires payment of an appeal forwarding fee within the time permitted by 37 CFR 41.45(a), unless appellant had timely paid the fee for filing a brief required by 37 CFR 41.20(b) in effect on March 18, 2013.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ON APPEAL FROM THE EXAMINER
TO THE PATENT TRIAL AND APPEAL BOARD**

First Named Inventor:	Brad Krassner et al.
Application No:	12/316,781
Filing Date:	December 16, 2008
Art Unit:	2176
Confirmation No.:	2529
Examiner:	Shawn S. Joseph
Title:	*Content Rendering Control System and Method*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

APPEAL BRIEF

The undersigned has appealed to The Patent Trial and Appeal Board ("Board") from the Final Office Action dated 23 September 2016 ("Final Office Action"), finally rejecting Claims 23, and 65-83 pending in this case. The undersigned filed a Notice of Appeal on 22 December 2016. The undersigned respectfully submits this Appeal Brief.

Real Party In Interest

This Application is currently owned by Rich Media Club, LLC as indicated by Assignment No. 1 recorded on April 9, 2009 from inventors Brad Krassner, Nikolai Mentchoukov, Alan Edwards, and Igor Tchibirev to Rich Media Club LLC, in the Assignment Records of the PTO at Reel 022525, Frame 0110 (5 pages); Assignment No. 2 recorded on October 31, 2012 from Assignor Rich Media Club LLC to REALVU, LLC, at Reel 029219, Frame 0942 (4 pages); Assignment No. 3 recorded on October 31, 2012 from Assignor REALVU, LLC to Rich Media Club LLC, at Reel 029218, Frame 0751 (13 pages); Assignment No. 4 recorded on November 27, 2012 from Assignor REALVU, LLC to Rich Media Worldwide LLC, at Reel 029355, Frame 0733 (15 pages); and Assignment No. 5 recorded on April 28, 2015 from Assignor REALVU, LLC to Rich Media Club, LLC, in the Assignment Records of the PTO at Reel 035519, Frame 0254 (14 pages).

Related Appeals and Interferences

Appellants know of no related appeals or interferences.

Summary of Claimed Subject Matter

This Application relates to determining whether a pre-defined portion of a content page is viewable on a display device. In certain embodiments, a method includes determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window. The method further includes causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

With regard to the independent claims currently under Appeal, the following concise explanation of the subject matter recited in the claim elements is provided. For brevity, not every portion of the Specification and drawings relevant to the recited claim elements are provided. Additionally, this explanation should not be used to limit the claims but is intended to assist the Board in considering the Appeal of this Application.

Independent Claim 23

23. A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, and 74 of the specification);

causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, 63, and 74 of the specification).

Independent Claim 75

75. A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, and 74 of the specification);

by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, 63, and 74 of the specification); and

by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action (*e.g.,* Figure 21 and ¶¶ 63 and 70 of the specification).

Independent Claim 80

80. One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:

determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, and 74 of the specification);

taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, 63, and 74 of the specification); and

taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action (*e.g.*, Figure 21 and ¶¶ 63 and 70 of the specification).

Arguments

Claims 23 and 65-83 stand rejected pursuant to the Final Office Action dated 23 September 2016 ("Final Office Action"). For at least the following reasons, Appellants respectfully submit that these rejections are improper and should be reversed by the Board.

The Claims are Allowable over *Koeppel* and the proposed *Dutta-Koeppel* combination

The Examiner rejects Claims 23 and 65-83 under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Publication No. 2005/0177401 ("*Koeppel*"). The Examiner also rejects Claims 23 and 65-83 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Publication No. 2004/0205651 ("*Dutta*") in view of *Koeppel*.

Appellants respectfully submit that these rejections are legally and/or factually deficient and should be reversed by the Board. For example, in rejecting Claims 23 and 65-83 under §§ 102 and 103, the Examiner relies exclusively upon the teachings of *Koeppel* and *Dutta*, but these references fail to disclose, teach, or suggest each and every limitation of the claims. *Koeppel* merely discloses a server analyzing a user's interaction with a webpage after the user has left the webpage and then serving a modified webpage to the user on *subsequent visits* based on the analysis. *Dutta*, on the other hand, merely discloses detecting that a user is focusing on a particular portion of a webpage (e.g., by tracking their eye or mouse movements). As discussed below, neither of these references, taken alone or in combination, discloses, teaches, or suggests "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in independent Claim 23. Similarly, neither of the references, taken alone or in combination, discloses, teaches, or suggests "taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window," as recited in independent Claims 75 and 80. Finally, neither of the references, taken alone or in combination, discloses, teaches, or suggests "determining a scrolling position of an application window," as recited in dependent Claims 67, 69, and 78. Appellants respectfully request the Board to reconsider and reverse these rejections.

I. The claims do not recite optional elements that can be ignored by the Examiner.

As an initial matter, the many statements by the Examiner in the Final Office Action alleging that the claims recite optional elements are incorrect. As just one example, the Examiner states:

> Examiner first notes that the language does not require "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area*" to be positively determined, but rather only "*determining whether*" either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. (Final Office Action, page 4, emphasis in original.)

These and other similar statements by the Examiner in the Final Office Action are incorrect for at least two reasons. **First**, the Examiner is wrong that the above language is conditional or optional. Instead, Claim 23 clearly requires the specific steps of "determining…whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window," and in response, "causing an advertisement to be rendered in the pre-defined area of the content page." This can be summarized with a simple equation for illustrative purposes only: if condition A or condition B is determined to have occurred, then perform an action. Continuing this illustration using a car analogy, a similar equation may be: if a dog runs into the street or a person walks across the road, then apply the brakes of the car. In other words, the action (apply the brakes) is performed if either condition is determined to be true (a dog runs into the street or a person walks across the road). In the instant case, the two conditions are: A) a pre-defined area is at least partially within a visible area of an application window on a display device, and B) the pre-defined area is within a pre-defined distance outside of the visible area of the application window. If either conditions A) or B) are determined to have been met, the claim requires "causing an advertisement to be rendered in the pre-defined area of the content page." This is not

conditional language but rather requires a specific step to be performed if either of two specific conditions are met. This is in direct contrast to the portion of the M.P.E.P. cited by the Examiner which states that "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed." (M.P.E.P. § 2111.04.)

Second, the portion of the M.P.E.P. relied upon by the Examiner to support his contention that the "determining whether" language of Claim 23 is optional does not specifically mention "whether" or "determining whether" as being conditional or optional claim language. (See M.P.E.P. § 2111.04.) Furthermore, the Examiner does not cite to any other authority (e.g., M.P.E.P or case law) to support the contention that "whether" or "determining whether" claim language is conditional or optional claim language. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

II. Independent Claim 23 is allowable because *Koeppel* and the proposed *Dutta-Koeppel* combination does not disclose causing an advertisement to be rendered in the claimed pre-defined area of a content page.

Independent Claim 23 is allowable at least because *Koeppel* and the proposed *Dutta-Koeppel* combination fails to disclose, teach, or suggest, "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23 (emphasis added). Stated another way, Claim 23 recites determining that a pre-defined area is either at least partially within a visible area of an application window or is within a pre-defined distance outside of the visible area, and in response, causing an advertisement to be rendering **in that same pre-defined area**. Because certain embodiments cause advertisements to be rendered in a pre-defined area as described above, "bandwidth and other communications resources are utilized more effectively and efficiently." (Specification, ¶ 8.) In addition, by utilizing certain embodiments, a website publisher can deliver a "viewable impression" (e.g., content that has been at least partially viewed) when required to do so under a contract with an advertiser that requires viewable guarantees. Previously, a website publisher may have delivered advertisement spaces and other content that was never

actually viewed (e.g., content that stayed below the "fold" of a web page). This caused the served spaces to not count towards a required viewable guarantee. In addition, this caused unnecessary costs for the website publisher since the served spaces still required computing capacity and network bandwidth to serve. Using certain embodiments of this application, however, a website publisher can meet viewable impression guarantees with advertisers and lower their costs in the process since advertisements and other content may not be served if they will not be at least partially viewed, according to certain embodiments.

The Examiner points only to ¶ 170 of *Koeppel* as allegedly teaching this portion of Claim 23. (Final Office Action, pages 6 and 48-49.) However, this is incorrect. While the cited portions of *Koeppel* may disclose advertisements, they do not disclose, teach, or suggest "***causing an advertisement to be rendered <u>in the pre-defined area</u> [that is determined to be either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window] of the content page***," as recited in Claim 23. Figures 17-19 and ¶ 70 of the present Application (shown below) illustrate this portion of Claim 23 according to certain embodiments of the disclosure:

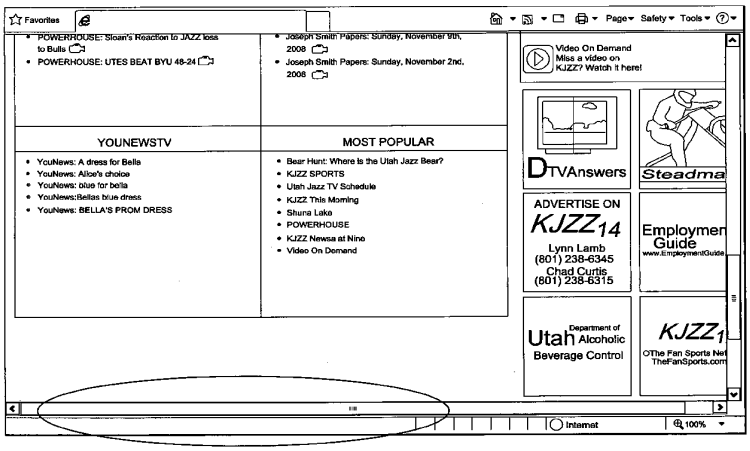


FIG. 17

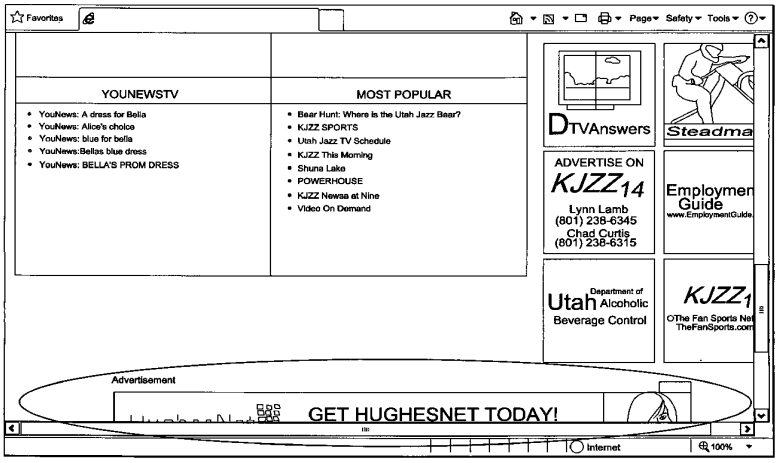


FIG. 18

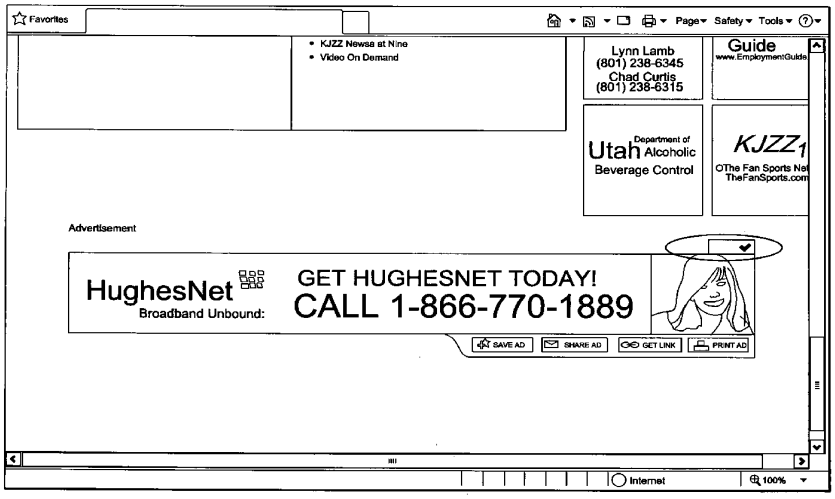


FIG. 19

[0070] FIG. 17 depicts a sample content page as presented to a content page viewer, with the content rendering area of the content page located below the viewer's browser window dimensions and scrolling position, noted by an oval indicator. **Content rendering is not yet triggered** because the designated area of the content page that must be within the viewer's browser window dimensions and scrolling position is not yet within such dimensions and scrolling position. FIG. 18 depicts a sample content page with the content rendering area entering the viewer's browser window dimensions and scrolling position. At this point, if content rendering is set to trigger when the designated area of the content page is partially within the viewer's browser window dimensions and scrolling position, the correlator code would proceed

> to **activate content rendering**. FIG. 19 depicts a sample content page with the content rendering area fully within the viewer's browser window dimensions and scrolling position. As this point, if content rendering is set to trigger when the designated area of the content page is wholly within the viewer's browser window dimensions and scrolling position, the correlator code would proceed to **activate content rendering**.

These portions of the present Application illustrate how certain embodiments "***caus[e] an advertisement to be rendered in the pre-defined area [that is determined to be either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window] of the content page***," as recited in Claim 23 (emphasis added). The cited portion of *Koeppel*, on the other hand, simply discloses advertisements:

> [0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110. (*Koeppel*, ¶ 170.)

That is, while the cited portion of *Koeppel* may disclose advertisement objects on a webpage, it does not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23. In fact, other portions of *Koeppel* clearly explain that any provided content (including advertisements) is provided based on an analysis of a user's actions on a webpage *by a server after the user has already left the webpage*. That is, content in *Koeppel* is provided in a

modified webpage that is served on a *subsequent visit* to the webpage, not in ***the pre-defined area*** that is analyzed at the display device displaying the content page:

> [0038] Upon receiving the Web page, each client enables the users to browse the content displayed on the page. The users' behavior in response to the displayed page is monitored at each client node, by capturing events such as mouse movements, scrolling, resizing the browser window, URL selections and/or other similar user initiated events. **The captured events are sent back to the Web server** in response to a detected client side trigger, and the captured event data is stored into a server side data store.
>
> [0039] **An analytical program, executing in the Web server** analyzes the collected user event data to determine the effectiveness of the content presented on the Web page. A middleware program, executing in the Web server, determines the content to serve to the client nodes based on the analysis by the analytical program. **When the Web server receives a *subsequent request* for the Web page, the Web server serves a modified Web page that includes modified content back to the client nodes as an updated Web page.** The above described process is continuously repeated allowing the present invention to perform automatic analysis on the content presented on Web pages, and dynamically adjust the content to target selected user groups, for the purposes of achieving marketing or advertising goals. (*Koeppel*, ¶ 39, emphasis added.)

In other words, any advertisement displayed in *Koeppel* is displayed in *a new webpage on a subsequent visit*, not in "the pre-defined area" that is determined to be "either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window, as required by Claim 23. Consequently, the cited portion of *Koeppel* does not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that ***the pre-defined area*** is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23. The cited portions of *Dutta* do not cure these deficiencies of *Koeppel*, and the Examiner does not allege that they do. Consequently, *Koeppel* and the proposed *Dutta-Koeppel* combination fails to disclose, teach, or suggest each and every element of Claim 23.

For at least these reasons, independent Claim 23 and its dependent claims are allowable. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

III. Independent Claims 75 and 80 are allowable because *Koeppel* and the proposed *Dutta-Koeppel* combination does not disclose taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window.

Independent Claims 75 and 80 are allowable at least because *Koeppel* and the proposed *Dutta-Koeppel* combination fails to disclose, teach, or suggest, "***taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action***," as recited, for example, in Claim 75 (emphasis added). The Examiner relies only on ¶¶ [0152] of *Koeppel* as allegedly teaching this portion of Claim 75. (Final Office Action, pages 22 and 65-66.) However, this is incorrect. While the cited portion of *Koeppel* may disclose determining that a portion of a component is not in view, they do not disclose, teach, or suggest "***taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action***," as recited in Claim 23. According to the cited portion of *Koeppel*:

> [0152] Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, **if it is determined that a portion of component is not in view**, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic. (*Koeppel*, ¶ 152, emphasis added.)

That is, while the cited portion of *Koeppel* may disclose generating an in view percentage characteristic if a portion of a component is not in view, it does not disclose, teach, or suggest "***taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action***," as recited in Claim 23. In other words, while Claim 23 requires taking the second action when the pre-defined area is not at least partially visible (i.e, no portion of the pre-defined area is visible), the cited portions of *Koeppel* merely

disclose determining that a component is less than 100% visible (but ***is*** at least partially visible) and then generating an in view percentage characteristic. The cited portions of *Dutta* do not cure these deficiencies of *Koeppel*, and the Examiner does not allege that they do. Consequently, *Koeppel* and the the proposed *Dutta-Koeppel* combination fails to disclose each and every element of Claim 75.

For at least these reasons, independent Claim 75 and its dependent claims are allowable. For at least certain analogous reasons, independent Claim 80 and its dependent claims are also allowable. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

IV. Dependent Claims 67, 69, and 78 are additionally allowable because *Koeppel* and the proposed *Dutta-Koeppel* combination does not disclose determining a scrolling position of an application window on a display device.

In addition to depending from allowable independent Claim 23, dependent Claim 67 is allowable at least because the cited portions of *Koeppel* fail to disclose, teach, or suggest, "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. The Examiner relies on *Koeppel* for this claim, primarily pointing to ¶¶ [0085]-[0088]. (Final Office Action, pages 11-12 and 54-55.) However, this is incorrect. While the cited portions of *Koeppel* may disclose scrolling in a browser, they do not disclose, teach, or suggest "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. According to the cited portions of *Koeppel*:

> [0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view.
>
> [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B

> includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160.
>
> [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis.
>
> [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1. (*Koeppel*, ¶ 85-88, emphasis in original.)

That is, while the cited portions of *Koeppel* may disclose detecting that a user has scrolled a browser, merely detecting that a user has scrolled a browser does not disclose, teach, or suggest "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. The cited portions of *Dutta* do not cure these deficiencies of *Koeppel*, and the Examiner does not allege that they do. Consequently, *Koeppel* and the proposed *Dutta-Koeppel* combination fail to disclose, teach, or suggest each and every element of Claim 67. Accordingly, Appellants respectfully request reconsideration and allowance of this claim.

For at least these reasons, Claim 67 is allowable. Claims 69 and 78 also recite "determining a scrolling position… of the application window" and are therefore allowable for analogous reasons. Accordingly, Appellants respectfully request reconsideration and allowance of Claims 67, 69, and 78.

Conclusion

The undersigned has demonstrated that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, the undersigned respectfully requests the Board to reverse the final rejections and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

To the extent necessary, the Commissioner is hereby authorized to charge any necessary fees and credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Bradley J. Birchfield
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Tel. 214-953-6570

Dated: March 22, 2017

Correspondence Address:

CUSTOMER NO. **05073**

33808193

Duration Media Ex-1085

CLAIMS APPENDIX

For the convenience of the Examiner, all pending claims of the present Application are shown below whether or not an amendment has been made.

1. - 22. (Canceled)

23. (Previously Presented) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

24. - 64. (Canceled)

65. (Previously Presented) The method of Claim 23, further comprising:

by the code, determining, after the advertisement has been rendered in the pre-defined area of the content page, that the pre-defined area is no longer within the visible area of the application window, and in response, taking one or more of the following actions:

causing the rendered advertisement to be removed;

sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;

sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;

causing the rendered advertisement to be replaced with new content; and

causing a counter to stop counting an amount of time that the rendered advertisement was visible.

66. (Previously Presented) The method of Claim 23, wherein the content page comprises a webpage and the code comprises code embedded in the webpage.

67. (Previously Presented) The method of Claim 23, wherein determining that the pre-defined area of the content page is either at least partially within a visible area of a application window on a display device or is within a pre-defined distance outside of the visible area of the application window comprises determining, by the code, a scrolling position of the application window on the display device.

68. (Previously Presented) The method of Claim 23, further comprising determining, by the code, a percentage of the pre-defined area that is at least partially within the visible area of the application window.

69. (Previously Presented) The method of Claim 23, wherein determining that the pre-defined area of the content page is at least partially within the visible area of the application window comprises:

determining page coordinates of the pre-defined area;

determining a scrolling position and the coordinates of the application window; and

determining that the page coordinates of the pre-defined area are at least partially within the determined scrolling position and the coordinates of the application window.

70. (Previously Presented) The method of Claim 23, wherein causing the advertisement to be rendered in the pre-defined area of the content page comprises retrieving, by the code, one or more content files and rendering the one or more content files in the pre-defined area of the content page.

71. (Previously Presented) The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:

an operating system running on the display device;

a type of a browser;

a version of a browser; and

a list of other content already rendered on the content page.

72. (Previously Presented) The method of Claim 23, wherein the code determines that the pre-defined area of the content page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the pre-defined area of the content page.

73. (Previously Presented) The method of Claim 23, further comprising determining, by the code, an amount of time that the advertisement is at least partially visible on the display device.

74. (Previously Presented) The method of Claim 23, wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window and scrolling position coordinates of the browser window.

75. (Previously Presented) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.

76. (Previously Presented) The method of Claim 75, wherein the first action comprises one or more of the following:

causing an advertisement to be rendered on the content page;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

77. (Previously Presented) The method of Claim 75, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed;

transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.

78. (Previously Presented) The method of Claim 75, wherein determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible are of the application window comprises:

determining page coordinates of the pre-defined area;

determining a scrolling position and coordinates of the application window; and

determining that the page coordinates of the pre-defined area are within the determined scrolling position and coordinates of the browser window.

79. (Previously Presented) The method of Claim 75, further comprising transmitting data comprising one or more of:

a time period in which the pre-defined area is at least partially within the visible area of the application window;

a time period in which the application window is the primary window open on the display device;

a proportional extent to which the area on the pre-defined area is at least partially within the visible area of the application window;

an indication of whether the application window is obstructed from view on the display device by another application window;

an identification of the viewer;

a geographic location;

a type of the application;

an identification of an operating system of the display device;

a view event duration;

a view event time;

a content rendering frequency;

a content rendering reach;

a viewer click-activity with respect to the one or more content files rendered in the pre-defined area;

dimension of the visible area;

dimension of the application window;

a scrolling position of the application window; and

an in-focus status of the application window.

80. (Previously Presented) One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:

determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.

81. (Previously Presented) The media of Claim 80, wherein the first action comprises one or more of the following:

causing one or more content files to be rendered on the content page;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

82. (Previously Presented) The media of Claim 80, wherein the one or more content files are operable, when rendered on the content page, to display one or more of:

one or more advertisements;

a video;

one or more images; and

text.

83. (Previously Presented) The media of Claim 80, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed; transmitting an indication to the computing system that the pre-defined area is not at

least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	Brad Krassner et al.
Application No.:	12/316,781
Filing Date:	December 16, 2008
Art Unit:	2176
Confirmation No.:	2529
Examiner:	Shawn S. Joseph
Title:	*Content Rendering Control System and Method*

Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

Notice of Appeal

Applicants appeal to the Patent Trial and Appeal Board from the final Office Action dated September 23, 2016, rejecting Claims 23 and 65-83. The Board is respectfully requested to reconsider and reverse these rejections.

The final Office Action states that "[t]he previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal," therefore Applicants believe no fee is due for this Notice of Appeal. However, the Commissioner is authorized to charge any necessary additional fees and credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



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Duration Media Ex-1085

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	082097.0108	2529

5073 7590 09/23/2016

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EXAMINER	
JOSEPH, SHAWN S	

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
09/23/2016	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
ptomail2@bakerbotts.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/316,781	Applicant(s) KRASSNER ET AL.	
	Examiner Shawn S. Joseph	Art Unit 2176	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *2/22/16*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *23 and 65-83* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *23 and 65-83* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date *7/2/15; 8/27/15; 11/12/15; 12/31/15; 7/20/16; 7/27/16*.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

In view of the Appeal Brief filed on 02/22/2016 and Information Disclosure Statement filed on 07/20/2016, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Kavita Padmanabhan/
Supervisory Patent Examiner, Art Unit 2176

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the conflicting claims are not

identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on nonstatutory double patenting provided the reference application or patent either is shown to be commonly owned with the examined application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. See MPEP § 717.02 for applications subject to examination under the first inventor to file provisions of the AIA as explained in MPEP § 2159. See MPEP §§ 706.02(l)(1) - 706.02(l)(3) for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO Internet website contains terminal disclaimer forms which may be used. Please visit www.uspto.gov/patent/patents-forms. The filing date of the application in which the form is filed determines what form (e.g., PTO/SB/25, PTO/SB/26, PTO/AIA/25, or PTO/AIA/26) should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp.

Claims 23, 65-83 are provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over Claims 73, 75-76, 88, 90-92, 95-97, 100, 102-103, 105-112, 114-122 of copending Application No. 13/731,742 (reference application). Although the claims at issue are not identical, they are not patentably distinct from each other because they merely possess minor variations in wording that do not substantially impact the subject matter claimed.

This is a provisional nonstatutory double patenting rejection because the patentably indistinct claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 65-83 are rejected under 35 U.S.C. 102(2) as being anticipated by Koeppel et al., U.S. Pub. No. US 2005/0177401 A1 (hereinafter, "Koeppel").

Claim 23:

Koeppel teaches ***A method comprising:***

- ***determining, by code executed by a computing system whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area"* to be positively determined, but rather only *"determining <u>whether</u>"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, see [0085]-

[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***causing an advertisement to be rendered in the pre-defined area of the content page in***

response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window. (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements, and elements depending on their optional occurrence such as *"causing an advertisement to be rendered in the pre-defined area of the content page,"* are not limiting to the claim, and optional elements, and those that depend on their occurrence, need not be taught by the prior art to meet the claim. Nonetheless, see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")

Claim 65:

Koeppel teaches ***The method of Claim 23, further comprising:***

- ***by the code, determining, after the advertisement has been rendered in the pre-defined area of the content page, that the pre-defined area is no longer within the visible area of the application window, and in response, taking one or more of the following actions:*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***causing the rendered advertisement to be removed;*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected

user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the

content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***causing the rendered advertisement to be replaced with new content;***
- ***and causing a counter to stop counting an amount of time that the rendered advertisement was visible.*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process

described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 66:

Koeppel teaches ***The method of Claim 23,***

- ***wherein the content page comprises a webpage and the code comprises code embedded in the webpage.*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined

threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 67:

Koeppel teaches ***The method of Claim 23,***

- ***wherein determining that the pre-defined area of the content page is either at least partially within a visible area of a application window on a display device or is within a pre-defined distance outside of the visible area of the application window comprises determining, by the code, a scrolling position of the application window on the display device.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG.

9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

Claim 68:

Koeppel teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, a percentage of the pre-defined area that is at least partially within the visible area of the application window.*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Claim 69:

Koeppel teaches ***The method of Claim 23, wherein determining that the pre-defined area of the content page is at least partially within the visible area of the application window comprises:***

- ***determining page coordinates of the pre-defined area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to

bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***determining a scrolling position and the coordinates of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of

pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***and determining that the page coordinates of the pre-defined area are at least partially within the determined scrolling position and the coordinates of the application window.*** (see [0085]-[0115]– "[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of

pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

Claim 70:

Koeppel teaches ***The method of Claim 23, wherein causing the advertisement to be rendered in the pre-defined area of the content page comprises:***

- ***retrieving, by the code, one or more content files and rendering the one or more content files in the pre-defined area of the content page.*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

Claim 71:

Koeppel teaches ***The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:***

- ***an operating system running on the display device;***
- ***a type of a browser;*** (see [0054] –"FIG. 2 is an exemplary flow chart of the steps performed by network 100 when performing dynamic Web-based content delivery, in accordance with methods consistent with the invention. The process begins when users located at client nodes 150 request a Web page from a Web server 110 located on network 140, using well known client side Web page accessing techniques. In

response to the request, Web server 110 subsequently provides the requested page to the client nodes and browser software executing on each client node (Step S.200). A detailed description of an exemplary presentation process will be described below with reference to FIG. 3.")

- ***a version of a browser;*** (see [0054] –"FIG. 2 is an exemplary flow chart of the steps performed by network 100 when performing dynamic Web-based content delivery, in accordance with methods consistent with the invention. The process begins when users located at client nodes 150 request a Web page from a Web server 110 located on network 140, using well known client side Web page accessing techniques. In response to the request, Web server 110 subsequently provides the requested page to the client nodes and browser software executing on each client node (Step S.200). A detailed description of an exemplary presentation process will be described below with reference to FIG. 3.")
- ***and a list of other content already rendered on the content page.*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

Claim 72:

Koeppel teaches ***The method of Claim 23,***

- ***wherein the code determines that the pre- defined area of the content page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the pre-defined area of the content page.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client

side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1." –Content is not "rendered" until it is within the display window view.)

Claim 73:

Koeppel teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, an amount of time that the advertisement is at least partially visible on the display device.*** (see [0157] –"FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 74:

Koeppel teaches ***The method of Claim 23,***

- ***wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window and scrolling position coordinates of the browser window.*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process

described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 75:

Koeppel teaches ***A method comprising***

- ***determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language

is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs

in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")
- ***and by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Claim 76:

Koeppel teaches ***The method of Claim 75, wherein the first action comprises one or more of the following:***

- ***causing an advertisement to be rendered on the content page;*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another

aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")

- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")
- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

Claim 77:

Koeppel teaches ***The method of Claim 75, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed;*** (see

[0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***transmitting an indication to the computing system that the pre-defined area is not at least***

partially within the visible area of the application window; (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")
- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;*** (see [0015] –"Advertisements are adjusted by replacing the presented advertisement with another image/text object stored in a database. That is, when a target advertisement is to be changed, a replacement advertisement image/text object is retrieved from a database and positioned in the accessed Web page the previous advertisement was located. Accordingly, entire banners are replaced each time a new advertisement is needed to target a selected user. Furthermore, when the objects stored in the database are no longer effective, these objects must be modified and updated, which may take a significant amount of time.")
- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user

response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 78:

Koeppel teaches ***The method of Claim 75, wherein determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window comprises***

- ***determining page coordinates of the pre-defined area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser,

Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***determining a scrolling position and coordinates of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also

includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***and determining that the page coordinates of the pre-defined area are within the determined scrolling position and coordinates of the application window.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen

portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

Claim 79:

Koeppel teaches ***The method of Claim 75, further comprising transmitting data comprising one or more of:***

- ***a time period in which the pre-defined area is at least partially within the visible area of the application window*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150,

with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a time period in which the application window is the primary window open on the display device;***
- ***a proportional extent to which the pre-defined area is at least partially within the visible area of the application window;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program

rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***an indication of whether the application window is obstructed from view on the display device by another application window;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***an identification of a viewer;***
- ***a geographic location;***

- ***a type of the application;***
- ***an identification of an operating system of the display device;***
- ***a view event duration;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***a view event time;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data

indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a content rendering frequency;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user

response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a content rendering reach;***
- ***a viewer click-activity with respect to one or more content files rendered in the a pre- defined area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side

script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***dimension of the visible area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of

the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***dimension of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of

the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***a scrolling position of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of

the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***and an in-focus status of the application window.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of

the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YP1 and XP1.")

Claim 80:

Koeppel teaches ***One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:***

- ***determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG.

9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")
- ***and taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the***

first action. (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Claim 81:

Koeppel teaches ***The media of Claim 80, wherein the first action comprises one or more of the following:***

- ***causing one or more content files to be rendered on the content page;*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")
- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be

performed at the Web server 1 10.")

- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

Claim 82:

Koeppel teaches ***The media of Claim 80, wherein the one or more content files are operable, when rendered on the content page, to display one or more of:***

- ***one or more advertisements*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")
- ***a video;*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with

the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

- ***one or more images;*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")
- ***and text.*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

Claim 83:

Koeppel teaches ***The media of Claim 80, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed***
- ***transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of

the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;*** (see [0015] –"Advertisements are adjusted by replacing the presented advertisement with another image/text object stored in a database. That is, when a target advertisement is to be changed, a replacement advertisement image/text object is retrieved from a database and positioned in the accessed Web page the previous advertisement was located. Accordingly, entire banners are replaced each time a new advertisement is needed to target a selected user. Furthermore, when the objects stored in the database are no longer effective, these objects must be modified and updated, which may take a significant amount of time.")

- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value

associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 23, 65-83 arerejected under 35 U.S.C. 103(a) as being unpatentable over Dutta et al., U.S. Pub. US 2004/0205651 A1 (hereinafter, "Dutta"), in view of Koeppel et al., U.S. Pub. No. US 2005/0177401 A1 (hereinafter, "Koeppel").

Claim 23:

Dutta teaches ***A method comprising:***

- ***determining, by code executed by a computing system whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area of the application window ...***(Examiner first

notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where *"a pre-defined area of a content page is either at least partially within a visible area of an application window"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

Koeppel teaches:

- ***...by comparing coordinates of the pre-defined area with coordinates of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display

970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04.

Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements, and elements depending on their optional occurrence such as "*causing an advertisement to be rendered in the pre-defined area of the content page,*" are not limiting to the claim, and optional elements, and those that depend on their occurrence, need not be taught by the prior art to meet the claim. Nonetheless, see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")

Dutta and Koeppel are analogous art pertaining to electronic document processing. Further, Dutta and Koeppel are analogous art pertaining to user action determining monitoring. Further still, Dutta and Koeppel are analogous art pertaining to user action determining monitoring, including tracking user's scrolling position and window view.

It would have been obvious to one of ordinary skill at the time of invention to combine the teachings of Dutta and Koeppel for purposes such as to more distinctly understand known methods regarding user action/focus monitoring. Duuta already calls for tracking and monitoring user scrolling and window coordinate/views. Koeppel more distinctly describes tracking and monitoring user scrolling and window coordinate/views, as well as more distinctly describes applications regarding these methods. Thus, one of ordinary skill in the art would have been readily prompted to look to Koeppel from Dutta, for this distinct

understanding.

Claim 65:

Koeppel teaches ***The method of Claim 23, further comprising:***

- ***by the code, determining, after the advertisement has been rendered in the pre-defined area of the content page, that the pre-defined area is no longer within the visible area of the application window, and in response, taking one or more of the following actions:*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***causing the rendered advertisement to be removed;*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user

responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts,

that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130,

automatically.")

- ***causing the rendered advertisement to be replaced with new content;***
- ***and causing a counter to stop counting an amount of time that the rendered advertisement was visible.*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 66:

Koeppel teaches ***The method of Claim 23,***

- ***wherein the content page comprises a webpage and the code comprises code embedded in the webpage.*** see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server

110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 67:

Koeppel teaches ***The method of Claim 23,***

- ***wherein determining that the pre-defined area of the content page is either at least partially within a visible area of a application window on a display device or is within a pre-defined distance outside of the visible area of the application window comprises determining, by the code, a scrolling position of the application window on the display device.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978,

which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

Claim 68:

Koeppel teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, a percentage of the pre-defined area that is at least partially within the visible area of the application window.*** (see [0152] –"Since functions (5)-(8) determine that component

978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Claim 69:

Koeppel teaches ***The method of Claim 23, wherein determining that the pre-defined area of the content page is at least partially within the visible area of the application window comprises:***

- ***determining page coordinates of the pre-defined area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a

coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***determining a scrolling position and the coordinates of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG.

9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***and determining that the page coordinates of the pre-defined area are at least partially within the determined scrolling position and the coordinates of the application window.*** (see [0085]-[0115]– "[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are

needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

Claim 70:

Koeppel teaches ***The method of Claim 23, wherein causing the advertisement to be rendered in the pre-defined area of the content page comprises:***

- ***retrieving, by the code, one or more content files and rendering the one or more content files in the pre-defined area of the content page.*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

Claim 71:

Koeppel teaches ***The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:***

- ***an operating system running on the display device;***

- ***a type of a browser;*** (see [0054] –"FIG. 2 is an exemplary flow chart of the steps performed by network 100 when performing dynamic Web-based content delivery, in accordance with methods consistent with the invention. The process begins when users located at client nodes 150 request a Web page from a Web server 110 located on network 140, using well known client side Web page accessing techniques. In response to the request, Web server 110 subsequently provides the requested page to the client nodes and browser software executing on each client node (Step S.200). A detailed description of an exemplary presentation process will be described below with reference to FIG. 3.")
- ***a version of a browser;*** (see [0054] –"FIG. 2 is an exemplary flow chart of the steps performed by network 100 when performing dynamic Web-based content delivery, in accordance with methods consistent with the invention. The process begins when users located at client nodes 150 request a Web page from a Web server 110 located on network 140, using well known client side Web page accessing techniques. In response to the request, Web server 110 subsequently provides the requested page to the client nodes and browser software executing on each client node (Step S.200). A detailed description of an exemplary presentation process will be described below with reference to FIG. 3.")
- ***and a list of other content already rendered on the content page.*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

Claim 72:

Koeppel teaches ***The method of Claim 23,***

- ***wherein the code determines that the pre- defined area of the content page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the pre-defined area of the content page.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis.

[0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1." –Content is not "rendered" until it is within the display window view.)

Claim 73:

Koeppel teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, an amount of time that the advertisement is at least partially visible on the display device.*** (see [0157] –"FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 74:

Koeppel teaches ***The method of Claim 23,***

- ***wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window and scrolling position coordinates of the browser window.*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 75:

Dutta teaches ***A method comprising***

- ***determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window...*** (Examiner first notes

that the language does not require "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area*" to be positively determined, but rather only "*determining whether*" either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where "*a pre-defined area of a content page is either at least partially within a visible area of an application window*" at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

Koeppel teaches:

- ***... by comparing coordinates of the pre-defined area with coordinates of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display

970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")
- ***and by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different***

from the first action. (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Dutta and Koeppel are analogous art pertaining to electronic document processing. Further, Dutta and Koeppel are analogous art pertaining to user action determining monitoring. Further still, Dutta and Koeppel are analogous art pertaining to user action determining monitoring, including tracking user's scrolling position and window view.

It would have been obvious to one of ordinary skill at the time of invention to combine the teachings of Dutta and Koeppel for purposes such as to more distinctly understand known methods regarding user action/focus monitoring. Duuta already calls for tracking and monitoring user scrolling and window coordinate/views. Koeppel more distinctly describes tracking and monitoring user scrolling and window coordinate/views, as well as more distinctly describes applications regarding these methods. Thus, one of ordinary skill in the art would have been readily prompted to look to Koeppel from Dutta, for this distinct understanding.

Claim 76:

Koeppel teaches ***The method of Claim 75, wherein the first action comprises one or more of the following:***

- ***causing an advertisement to be rendered on the content page;*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content

from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")

- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")
- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

Claim 77:

Koeppel teaches ***The method of Claim 75, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows

972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8)

determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;*** (see [0015] –"Advertisements are adjusted by replacing the presented advertisement with another image/text object stored in a database. That is, when a target advertisement is to be changed, a replacement advertisement image/text object is retrieved from a database and positioned in the accessed Web page the previous advertisement was located. Accordingly, entire banners are replaced each time a new advertisement is needed to target a selected user. Furthermore, when the objects stored in the database are no longer effective, these objects must be modified and updated, which may take a significant amount of time.")

- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on

the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Claim 78:

Koeppel teaches ***The method of Claim 75, wherein determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window comprises***

- ***determining page coordinates of the pre-defined area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in

further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***determining a scrolling position and coordinates of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and

Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***and determining that the page coordinates of the pre-defined area are within the determined scrolling position and coordinates of the application window.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2,

XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

Claim 79:

Koeppel teaches ***The method of Claim 75, further comprising transmitting data comprising one or more of:***

- ***a time period in which the pre-defined area is at least partially within the visible area of the application window*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include

correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a time period in which the application window is the primary window open on the display device;***
- ***a proportional extent to which the pre-defined area is at least partially within the visible area of the application window;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold

value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***an indication of whether the application window is obstructed from view on the display device by another application window;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***an identification of a viewer;***
- ***a geographic location;***
- ***a type of the application;***

- ***an identification of an operating system of the display device;***
- ***a view event duration;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")
- ***a view event time;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view

features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a content rendering frequency;*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling, maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

- ***a content rendering reach;***
- ***a viewer click-activity with respect to one or more content files rendered in the a pre- defined area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser

window 974, and is represented by coordinates YPI and XP1.")

- ***dimension of the visible area;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and

XP1.")

- ***dimension of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and

XP1.")

- ***a scrolling position of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and

XP1.")

- ***and an in-focus status of the application window.*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and

XP1.")

Claim 80:

Dutta teaches ***One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:***

- ***determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window...*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where *"a pre-defined area of a content page is either at least partially within a visible area of an application window"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

Koeppel teaches:

- ***... by comparing coordinates of the pre-defined area with coordinates of the application***

window; (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***taking a first action in response to determining that the pre-defined area is either at least***

partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

- ***and taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

Dutta and Koeppel are analogous art pertaining to electronic document processing. Further, Dutta and Koeppel are analogous art pertaining to user action determining monitoring. Further still, Dutta and Koeppel are analogous art pertaining to user action determining monitoring, including tracking user's scrolling position and window view.

It would have been obvious to one of ordinary skill at the time of invention to combine the teachings of Dutta and Koeppel for purposes such as to more distinctly understand known methods regarding user action/focus monitoring. Duuta already calls for tracking and monitoring user scrolling and window coordinate/views. Koeppel more distinctly describes tracking and monitoring user scrolling and window coordinate/views, as well as more distinctly describes applications regarding these methods. Thus, one of ordinary skill in the art would have been readily prompted to look to Koeppel from Dutta, for this distinct understanding.

Claim 81:

Koeppel teaches ***The media of Claim 80, wherein the first action comprises one or more of the following:***

- ***causing one or more content files to be rendered on the content page;*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")

- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store 160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (see [0153] –"Accordingly, a number of different in view characteristic data may be generated using the coordinate information calculated by the client side script. In an alternate embodiment of the invention, client side script stores the coordinate information in data store

160, and when analytical program 112 receives this information, the above in view analysis may be performed at the Web server 1 10.")

Claim 82:

Koeppel teaches ***The media of Claim 80, wherein the one or more content files are operable, when rendered on the content page, to display one or more of:***

- ***one or more advertisements*** (see [0170] –"[0170] In an alternate embodiment of the invention, the detailed user monitoring and collection implementations performed by methods, systems and articles of manufacture consistent with the present invention may be applied to advertisement and content billing management. FIG. 7 is a flow chart of a content marketing process associated with the in-view features performed by Web server 110, in accordance with another aspect of the invention. In accordance with this aspect of the invention, Web server 110 may receive content from third party entities 180 to be included in a rendered Web page by Web server 110. The content received may include content as previously described, including advertisement objects. In one embodiment of the invention, third party entities 180 may provide Web server 110 with an identifier, such as a URL, to be included in a rendered Web page instead of content. In this embodiment, third party entities 180 control the type of content to be included in a rendered Web page, by enabling the URL to link to the third party entity 180 where the content is created and sent to Web server 110.")
- ***a video;*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

- ***one or more images;*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")
- ***and text.*** (see [0053] –"Content rules may include code that governs how the content is rendered on a Web page presented at the client nodes. These rules may control variations of the attributes associated with the content, such as the types of font, text, color, position, products, characteristics of associated multimedia files, various services available, or any other types of attributes associated with the content rendered. The rules may also control the frequency in which the variations of the attributes take place, such as rendering a particular font for 20% of the rendering time, or rendering a particular version of the content for 30% of the rendering time. As described above, a multitude of variations of rules and content can be processed by the Web server, and are not limited to the examples listed above.")

Claim 83:

Koeppel teaches ***The media of Claim 80, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed***
- ***transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0085]-[0115]–"[0085] As shown in FIG. 9A, a client side computer display 970 presents a couple of windows 972 and 974, representing applications running on a client node 150. Window 974 represents a Web browser application being executed at the client node 150, while window 972 represents any other software application that may be executing while the

browser software is currently running. Window 974 includes a Web-page 976 and a target component 978, which is located on Web page 976. Target component 978 may be associated with a number of different types of Web-page content as previously described. As can be seen in FIG. 9A, Web page 976 and target component 978 are partially in view. [0086] The partial view of Web page 976 and component 978 is better illustrated in FIG. 9B. FIG. 9B includes display 970, Web browser window 974, and target component 978 as shown in FIG. 9A. Additionally, FIG. 9B includes a representation of an unseen portion 980 of Web page 976, and an unseen portion 982 of target component 978. FIG. 9B also includes values Wbrowser, Hbrowser, YP1, YP2, YC1, YC2, XP1, XP2, XC1, XC2, Wcomponent, and Hcomponent, which will be described in further detail later. In order for the client side script to determine whether a component is in view to a user, detailed positional information is collected and stored in client side data store 160. [0087] The in view collection process begins when selected events occur, initiated by the user viewing the Web browser application at client node 150. The selected events may include, but are not limited to, scrolling or resizing of the browser, and loading of a Web page. The Client side script recognizes these triggers and begins to collect in view characteristic data. Coordinate information based on the position of the windows in display 970 are needed to determine the in view status of a target component. As shown in FIG. 9B the center axis for a coordinate grid associated with Web based displays is located at the upper left hand corner of display 970. The coordinates (X, Y) for the center axis represented is (0, 0). Quadrant IV of the (X, Y) graph represents the positive axis quadrant for the (X, Y) axis represented in FIG. 9B. That is, the X axis runs in positive values of pixels from left to right, starting at the center axis, and the Y axis run in positive values of pixels from top to bottom, starting at the center axis. [0088] Once a selected event occurs, the client side script executes commands to calculate the coordinates of the top of Web page 976 that is viewable in browser window 974, and is represented by coordinates YPI and XP1.")

- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see [0152] –"Since functions (5)-(8) determine that component 978 is 100% in full view, proportional calculations do not need to be generated. However, if it is determined that a portion of component is not in view, the appropriate coordinate side would

have a proportion calculation performed against it [i.e. functions (9)-(12)], to generate an in view percentage characteristic.")

- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;*** (see [0015] –"Advertisements are adjusted by replacing the presented advertisement with another image/text object stored in a database. That is, when a target advertisement is to be changed, a replacement advertisement image/text object is retrieved from a database and positioned in the accessed Web page the previous advertisement was located. Accordingly, entire banners are replaced each time a new advertisement is needed to target a selected user. Furthermore, when the objects stored in the database are no longer effective, these objects must be modified and updated, which may take a significant amount of time.")

- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0157] –" FIG. 6 is an exemplary flow chart of the analyze responses process described in FIG. 2. The process begins when the collected user responses stored in data store 120 are accessed by Web server 110 (Step S.610). Analytical program 115 retrieves the collected user response data and initiates an analysis program including the analytical program rules received by analysis system 170 (Step S.620). Analytical program 115 determines whether the Web page rendered at each client node 150, with its associated content, needs adjustment based on the collected user response data. Analysis may include correlating predetermined threshold values with the user response data. That is, if the user response data indicates that particular content was viewable to a user for a certain amount of time, based on the in-view features of the user response collection operations performed by the client side scripts, that may indicate the user was viewing the content for that certain time frame. Accordingly, a threshold value associated with particular content, and the amount of time it was viewable, may be incorporated into the analytical program rules programmed into analytical program 115. Analytical processing may include comparing the threshold value with the collected user response data to make a determination whether the content or rules stored in data store 130 need adjustment. The correlation processing performed by analytical program 115 may be associated with a plurality of user events, such as link selections, scrolling,

maximizing/minimizing windows. Analytical program 115 processes the results of the analyzed user response data, and updates the content rules, and/or content stored in data store 130, automatically.")

Response to Arguments

Applicant's arguments have been fully considered but they are moot in view of new grounds of rejection.

Conclusion

Examiner notes that any reference to specific figures, columns and lines should not be considered limiting in any way, and that each entire reference is considered to provide disclosure relating to the claimed invention. Therefore, each piece of cited relevant art must be considered in entirety.

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 07/27/2016 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN JOSEPH whose telephone number is (571) 270-7591. The examiner can normally be reached on Monday-Friday, 9:00 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kavita Padmanabhan can be reached on (571) 272-8352. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ON APPEAL FROM THE EXAMINER
TO THE PATENT TRIAL AND APPEAL BOARD**

First Named Inventor:	Brad Krassner et al.
Application No:	12/316,781
Filing Date:	December 16, 2008
Art Unit:	2176
Confirmation No.:	2529
Examiner:	Shawn S. Joseph
Title:	*Content Rendering Control System and Method*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

APPEAL BRIEF

The undersigned has appealed to The Patent Trial and Appeal Board ("Board") from the Final Office Action dated 19 June 2015 ("Final Office Action"), finally rejecting Claims 23, and 65-83 pending in this case. The undersigned filed a Notice of Appeal on 19 November 2015. The undersigned respectfully submits this Appeal Brief.

Duration Media Ex-1085

Real Party In Interest

This Application is currently owned by Rich Media Club, LLC as indicated by Assignment No. 1 recorded on April 9, 2009 from inventors Brad Krassner, Nikolai Mentchoukov, Alan Edwards, and Igor Tchibirev to Rich Media Club LLC, in the Assignment Records of the PTO at Reel 022525, Frame 0110 (5 pages); Assignment No. 2 recorded on October 31, 2012 from Assignor Rich Media Club LLC to REALVU, LLC, at Reel 029219, Frame 0942 (4 pages); Assignment No. 3 recorded on October 31, 2012 from Assignor REALVU, LLC to Rich Media Club LLC, at Reel 029218, Frame 0751 (13 pages); Assignment No. 4 recorded on November 27, 2012 from Assignor REALVU, LLC to Rich Media Worldwide LLC, at Reel 029355, Frame 0733 (15 pages); and Assignment No. 5 recorded on April 28, 2015 from Assignor REALVU, LLC to Rich Media Club, LLC, in the Assignment Records of the PTO at Reel 035519, Frame 0254 (14 pages).

Related Appeals and Interferences

Appellants know of no related appeals or interferences.

Summary of Claimed Subject Matter

This Application relates to determining whether a pre-defined portion of a content page is viewable on a display device. In certain embodiments, a method includes determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window. The method further includes causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

With regard to the independent claims currently under Appeal, the following concise explanation of the subject matter recited in the claim elements is provided. For brevity, not every portion of the Specification and drawings relevant to the recited claim elements are provided. Additionally, this explanation should not be used to limit the claims but is intended to assist the Board in considering the Appeal of this Application.

Independent Claim 23

23. A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, and 74 of the specification);

causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, 63, and 74 of the specification).

Duration Media Ex-1085

Independent Claim 75

75. A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, and 74 of the specification);

by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, 63, and 74 of the specification); and

by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action (*e.g.,* Figure 21 and ¶¶ 63 and 70 of the specification).

Independent Claim 80

80. One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:

determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, and 74 of the specification);

taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window (*e.g.,* Figures 17-20 and ¶¶ 7-9, 12-13, 50-52, 54-55, 63, and 74 of the specification); and

taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action (*e.g.*, Figure 21 and ¶¶ 63 and 70 of the specification).

Arguments

Claims 23 and 65-83 stand rejected pursuant to the Final Office Action dated 19 June 2015 ("Final Office Action"). For at least the following reasons, Appellants respectfully submit that these rejections are improper and should be reversed by the Board.

The Claims are Allowable over *Dutta*

The Examiner rejects Claims 23 and 65-83 under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Publication No. 2004/0205651 ("*Dutta*"). For at least the following reasons, these rejections are improper and should be reversed by the Board.

I. The independent claims are allowable because *Dutta* does not disclose comparing coordinates of a pre-defined area of a content page with coordinates of an application window.

Independent Claim 23 is allowable at least because *Dutta* fails to disclose, teach, or suggest, "***comparing coordinates of the pre-defined area [of a content page] with coordinates of the application window***," as recited in Claim 23 (emphasis added). The Examiner points to ¶¶ 9-10 and figures 5A and 5B of *Dutta* as allegedly teaching this portion of Claim 23. (Final Office Action, page 3.) Specifically, the Examiner states that "Dutta teaches where an 'application may be configured to track and detect the user of the client focusing on a portion ... then determine if there are components ... in the portion of the document...that have advertisements and/or specific information associated with the components ... the application may map each of the identified components ... to a particular file storing an advertisement and/ or specific information,' as the user focus is determined." (*Id.*, emphasis in original.) However, this is incorrect. While the cited portions of *Dutta* may disclose detecting whether a user is focusing on a particular object of a document (e.g., a word), they do not disclose, teach, or suggest "***comparing coordinates of the pre-defined area [of a content page] with coordinates of the application window***," as recited in Claim 23. According to cited portions of *Dutta*:

> [0009] The problems outlined above may at least in part be solved in some embodiments by a server transmitting an application that may comprise a Java applet to a client where the application may be configured **to track and detect**

Duration Media Ex-1085

> **the user of the client focusing on a portion, such as a particular area or particular word(s), in a document. The application may then determine if there are any components, e.g., terms, in the portion of the document focused on by the user that are in a list of components that have an advertisement and/or specific information associated with the components**. If there are any components in the list focused on by the user, then the application may map each of the identified components, e.g., terms, to a particular file storing an advertisement and/or specific information. The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client. The particular file(s) may be parsed by the browser of the client in order to display the images and graphics on a display as well as generate audio, if any, through speakers. The images and graphics as well as any audio may include context related advertisement(s) or other information related to the content of the user's focus. (*Dutta*, ¶ 10, emphasis added.)

That is, while cited portions of *Dutta* may disclose detecting whether a user is focusing on a particular object in a document (e.g., a word) and then determining if there are any advertisements and/or specific information associated with the word, they do not disclose, teach, or suggest "***comparing coordinates of the pre-defined area [of a content page] with coordinates of the application window***," as recited in Claim 23. In fact, *Dutta* does not disclose "***coordinates*** of [a] pre-defined area [of a content page]" or "***coordinates*** of [an] application window" at all, not to mention comparing these coordinates in order to determine "whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window," as required by Claim 23. Instead, *Dutta* merely discloses detecting whether a user is focusing on a particular object based on other factors:

> [0035] In step 505, application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking **based on the movement of a mouse** 326 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking **based on the area of text that may be zoomed by the user** of client 110 using screen magnification software stored locally on client 110, e.g., screen magnification software stored in application 350 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking **based on a CCD camera** 360 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking based on CCD camera 360 and **eye tracking software** stored locally on client 110, e.g., eye tracking software stored in

> application 350. It is noted that there may be other means of tracking the focus of the user of client 110 and that the above are illustrative. It is further noted that other means of tracking the focus of the user of client 110 would be recognized by an artisan of ordinary skill in the art and that embodiments employing such means would fall within the scope of the present invention.
>
> [0036] In step 506, application 132 may detect the user of client 110 focusing on a portion, for example a particular area or a particular word(s), in the document, e.g., web page, picture, displayed on display 338 in step 503. In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document **based on the user focusing on the portion in the document for a particular duration of time**. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion. In another embodiment, application 132 may determine that the user of client 110 is focusing on a portion in the document **based on the user of client 110 zooming on the portion using screen magnification software stored locally on client 110**, e.g., screen magnification software stored in application 350. (*Dutta*, ¶¶ 35-36, emphasis added.)

That is, while *Dutta* may disclose detecting whether a user is focusing on a particular object based on 1) the movement of a mouse, 2) an area of text that has been zoomed by the user, 3) a CCD camera, or 4) eye tracking software, it does not disclose, teach, or suggest "determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window ***by comparing coordinates of the pre-defined area [of the content page] with coordinates of the application window***," as recited in Claim 23. Consequently, *Dutta* fails to disclose, teach, or suggest each and every element of Claim 23.

For at least these reasons, independent Claim 23 and its dependent claims are allowable. For at least certain analogous reasons, independent Claims 75 and 80 and their dependent claims are also allowable. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

In response to Appellants' prior response, the Examiner erroneously argues in the Final Office Action that limitations of the claims are "optional elements [that] are not limiting

to the claim, and optional elements need not be taught by the prior art to meet the claim." (Office Action, page 2-3.) For example, the Examiner cites to MPEP 2111.04 and states:

> Examiner first notes that the language does not require "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area*" to be positively determined, but rather only "*determining whether*" either is the case. Thus, the language is set forth as a conditional or optional occurrence. (Office Action, page 2, emphasis in original.)

This is incorrect. The phrase "determining...whether..." is not a conditional or optional occurrence. Instead, Claim 23 clearly requires "comparing coordinates of the pre-defined area with coordinates of the application window" in order to determine "whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window." Furthermore, the portion of the MPEP relied upon by the Examiner does not specifically mention "whether" as being conditional or optional claim language. *See* MPEP § 2111.04 ("examples of claim language . . . that may raise a question as to the limiting effect of the language in a claim are: (A) 'adapted to' or 'adapted for' clauses; (B) 'wherein' clauses; and (C) 'whereby' clauses.") Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

II. Independent Claim 23 is allowable because *Dutta* does not disclose causing an advertisement to be rendered in a pre-defined area of the content page.

Independent Claim 23 is additionally allowable at least because *Dutta* fails to disclose, teach, or suggest, "***causing an advertisement to be rendered in the pre-defined area of the content page*** in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as recited in Claim 23 (emphasis added). The Examiner again points to ¶¶ 9-10 and figures 5A and 5B of *Dutta* as allegedly teaching this portion of Claim 23. (Final Office Action, page 3.) Specifically, the Examiner appears to equate the claimed "pre-defined area of the content page" to the portion of a document on which a user is focused, stating:

Duration Media Ex-1085

> Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion ... then determine if there are components ... in the portion of the document...that have advertisements and/or specific information associated with the components ... the application may map each of the identified components ... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus.) (*Id.*)

However, this is incorrect. While the cited portions of *Dutta* may disclose advertisements, they do not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area of the content page***," as recited in Claim 23. According to the cited portions of *Dutta*:

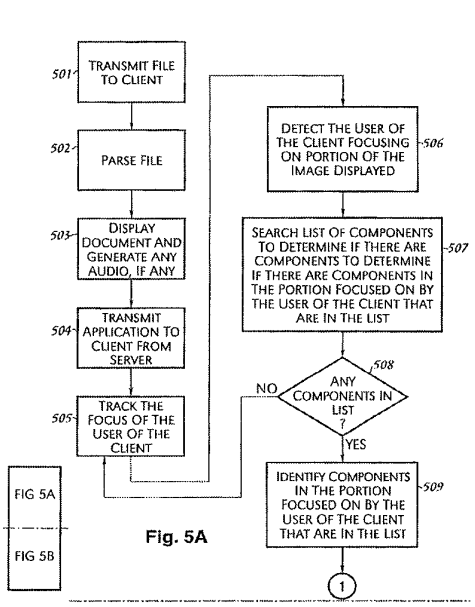


Fig. 5A

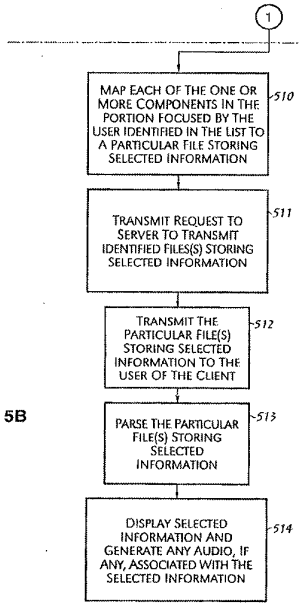


Fig. 5B

[0009] The problems outlined above may at least in part be solved in some embodiments by a server transmitting an application that may comprise a Java applet to a client where the application may be configured **to track and detect the user of the client focusing on a portion, such as a particular area or particular word(s), in a document. The application may then determine if there are any components, e.g., terms, in the portion of the document**

> **focused on by the user that are in a list of components that have an advertisement and/or specific information associated with the components**. If there are any components in the list focused on by the user, then the application may map each of the identified components, e.g., terms, to a particular file storing an advertisement and/or specific information. The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. **The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client. The particular file(s) may be parsed by the browser of the client in order to display the images and graphics on a display as well as generate audio, if any, through speakers. The images and graphics as well as any audio may include context related advertisement(s) or other information related to the content of the user's focus.**
>
> [0010] In one embodiment of the present invention, a method for transferring context related information related to the content of a user's focus may comprise the step of a server transmitting a file to a client. The file may then be parsed by a browser of the client in order to display the images and graphics of a document, e.g., web page, picture, on a display of the client as well as generate any audio through speakers. The server may then transmit an application that may comprise a Java applet to the browser of the client. The application may be configured to provide functionality to the document viewed as well as store a list of one or more components, e.g., terms, in the document, e.g., web page, picture, displayed by the client related to an advertisement and/or specific information. The list of one or more components may be stored locally or remotely to the server. (*Dutta*, Figures 5A-5B and ¶¶ 9-10, emphasis added.)

That is, while the cited portions of *Dutta* may disclose detecting whether a user is focusing on a particular portion of a document (mapped by the Examiner to the claimed "pre-defined area" of Claim 23) and then displaying an advertisement related to the content of the user's focus, they do not disclose, teach, or suggest "***causing an advertisement to be rendered in the pre-defined area of the content page***," as recited in Claim 23. In other words, any advertisement displayed in *Dutta* is not displayed in the portion of the document focused on by the user, as required by the Examiner's mapping and the language of Claim 23. Furthermore, any advertisement displayed in *Dutta* is not "in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window," as required by Claim 23. Consequently, *Dutta* fails to disclose, teach, or suggest each and every element of Claim 23.

For at least these additional reasons, independent Claim 23 and its dependent claims are allowable. Accordingly, Appellants respectfully request reconsideration and allowance of all pending claims.

III. Dependent Claim 67 is additionally allowable because *Dutta* does not disclose determining a scrolling position of an application window on a display device.

In addition to depending from allowable independent Claim 23, dependent Claim 67 is allowable at least because *Dutta* fails to disclose, teach, or suggest, "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. The Examiner points to ¶11 of *Dutta* for this claim, stating that the "[t]racking window position based on mouse movement (scroll position) is used to determine the area of user focus." (Final Office Action, page 6.) However, this is incorrect. While the cited portion of *Dutta* may disclose movement of a mouse, it does not disclose, teach, or suggest "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. According to the cited portion of *Dutta*:

> [0011] The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse. In another embodiment, the application may embody code to perform tracking based on the area of text that may be zoomed by the user of the client using screen magnification software stored locally on the client. In another embodiment, the application may embody code to perform tracking based on a Charge Coupled Device (CCD) camera coupled to the client. In another embodiment, the application may embody code to perform tracking based on the CCD camera coupled to the client and eye tracking software stored locally on the client. (*Dutta*, ¶ 11.)

That is, while the cited portion of *Dutta* may disclose tracking what a user is focused on in a document based on the movement of a mouse, it does not disclose, teach, or suggest "***determining…a scrolling position of the application window on the display device***," as recited in Claim 67. Consequently, *Dutta* fails to disclose, teach, or suggest each and every element of Claim 67. Accordingly, Appellants respectfully request reconsideration and allowance of this claim.

Duration Media Ex-1085

IV. Dependent Claim 68 is additionally allowable because *Dutta* does not disclose determining a percentage of a pre-defined area that is at least partially within a visible area of an application window.

In addition to depending from allowable independent Claim 23, dependent Claim 68 is allowable at least because *Dutta* fails to disclose, teach, or suggest, "***determining…a percentage of the pre-defined area that is at least partially within the visible area of the application window***," as recited in Claim 68. The Examiner again points to ¶11 of *Dutta* for this claim, stating that "[t]racking window position based on mouse movement (scroll position) is used to determine the area of user focus. Thus, the portion or percentage of the pre-defined area within the focus is constantly monitored. In one example, when the pre-defined area is fully within the focus, 100% of the area is determined to be in focus." (Final Office Action, page 6.) However, this is incorrect. While the cited portion of *Dutta* may disclose movement of a mouse, it does not disclose, teach, or suggest "***determining…a percentage of the pre-defined area that is at least partially within the visible area of the application window***," as recited in Claim 68. According to the cited portion of *Dutta*:

> [0011] The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse. In another embodiment, the application may embody code to perform tracking based on the area of text that may be zoomed by the user of the client using screen magnification software stored locally on the client. In another embodiment, the application may embody code to perform tracking based on a Charge Coupled Device (CCD) camera coupled to the client. In another embodiment, the application may embody code to perform tracking based on the CCD camera coupled to the client and eye tracking software stored locally on the client. (*Dutta*, ¶ 11.)

That is, while the cited portion of *Dutta* may disclose tracking what a user is focused on in a document based on the movement of a mouse, it does not disclose, teach, or suggest "***determining…a percentage of the pre-defined area that is at least partially within the visible area of the application window***," as recited in Claim 68. Furthermore, the statement by the Examiner that "when the pre-defined area is fully within the focus, 100% of the area is determined to be in focus" is incorrect and is not relevant to the claim language of Claim 68. Claim 68 requires determining a percentage of a pre-defined area that is "***at least partially within the visible area of the application window***," not what percentage of a portion of a

Duration Media Ex-1085

document that is determined to be in focus. Consequently, *Dutta* fails to disclose, teach, or suggest each and every element of Claim 68. Accordingly, Appellants respectfully request reconsideration and allowance of this claim.

V. Dependent Claim 73 is additionally allowable because *Dutta* does not disclose determining an amount of time that an advertisement is at least partially visible.

In addition to depending from allowable independent Claim 23, dependent Claim 73 is allowable at least because *Dutta* fails to disclose, teach, or suggest, "***determining…an amount of time that the advertisement is at least partially visible on the display device***," as recited in Claim 73. As explained above for independent Claim 23, the Examiner appears to equate the claimed "pre-defined area of the content page" to the portion of a document in *Dutta* on which a user is focused. For the additional limitations of dependent Claim 73, the Examiner points to ¶ 36 of *Dutta*. (Final Office Action, page 9.) However, this is incorrect. While the cited portion of *Dutta* may disclose a duration of time of a user's focus, it does not disclose, teach, or suggest "***determining…an amount of time that the advertisement is at least partially visible on the display device***," as recited in Claim 73. According to the cited portion of *Dutta*:

> [0036] In step 506, application 132 may detect the user of client 110 focusing on a portion, for example a particular area or a particular word(s), in the document, e.g., web page, picture, displayed on display 338 in step 503. **In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document based on the user focusing on the portion in the document for a particular duration of time. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion**. In another embodiment, application 132 may determine that the user of client 110 is focusing on a portion in the document based on the user of client 110 zooming on the portion using screen magnification software stored locally on client 110, e.g., screen magnification software stored in application 350. (*Dutta*, ¶ 36.)

That is, while the cited portion of *Dutta* may disclose determining that a user is focusing on a portion of a document (mapped by the Examiner to the claimed "pre-defined area") for a particular duration of time, it does not disclose, teach, or suggest "***determining…an amount of time that the advertisement is at least partially visible on the display device***," as recited in Claim 73. Furthermore, *Dutta's* "duration of time" is in reference to the portion of a

document on which a user is focused (mapped by the Examiner to the claimed "pre-defined area"), not the claimed "advertisement" of Claim 73. Consequently, *Dutta* fails to disclose, teach, or suggest each and every element of Claim 73. Accordingly, Appellants respectfully request reconsideration and allowance of this claim.

Duration Media Ex-1085

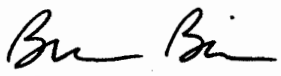
Conclusion

The undersigned has demonstrated that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, the undersigned respectfully requests the Board to reverse the final rejections and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

To the extent necessary, the Commissioner is hereby authorized to charge any necessary fees and credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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CUSTOMER NO. **05073**

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Duration Media Ex-1085

CLAIMS APPENDIX

For the convenience of the Examiner, all pending claims of the present Application are shown below whether or not an amendment has been made.

1. - 22. (Canceled)

23. (Previously Presented) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

24. - 64. (Canceled)

65. (Previously Presented) The method of Claim 23, further comprising:

by the code, determining, after the advertisement has been rendered in the pre-defined area of the content page, that the pre-defined area is no longer within the visible area of the application window, and in response, taking one or more of the following actions:

causing the rendered advertisement to be removed;

sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;

sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;

causing the rendered advertisement to be replaced with new content; and

causing a counter to stop counting an amount of time that the rendered advertisement was visible.

66. (Previously Presented) The method of Claim 23, wherein the content page comprises a webpage and the code comprises code embedded in the webpage.

67. (Previously Presented) The method of Claim 23, wherein determining that the pre-defined area of the content page is either at least partially within a visible area of a application window on a display device or is within a pre-defined distance outside of the visible area of the application window comprises determining, by the code, a scrolling position of the application window on the display device.

68. (Previously Presented) The method of Claim 23, further comprising determining, by the code, a percentage of the pre-defined area that is at least partially within the visible area of the application window.

69. (Previously Presented) The method of Claim 23, wherein determining that the pre-defined area of the content page is at least partially within the visible area of the application window comprises:

determining page coordinates of the pre-defined area;

determining a scrolling position and the coordinates of the application window; and

determining that the page coordinates of the pre-defined area are at least partially within the determined scrolling position and the coordinates of the application window.

70. (Previously Presented) The method of Claim 23, wherein causing the advertisement to be rendered in the pre-defined area of the content page comprises retrieving, by the code, one or more content files and rendering the one or more content files in the pre-defined area of the content page.

Duration Media Ex-1085

71. (Previously Presented) The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:

an operating system running on the display device;

a type of a browser;

a version of a browser; and

a list of other content already rendered on the content page.

72. (Previously Presented) The method of Claim 23, wherein the code determines that the pre-defined area of the content page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the pre-defined area of the content page.

73. (Previously Presented) The method of Claim 23, further comprising determining, by the code, an amount of time that the advertisement is at least partially visible on the display device.

74. (Previously Presented) The method of Claim 23, wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window and scrolling position coordinates of the browser window.

75. (Previously Presented) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.

76. (Previously Presented) The method of Claim 75, wherein the first action comprises one or more of the following:

causing an advertisement to be rendered on the content page;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

77. (Previously Presented) The method of Claim 75, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed;

transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.

78. (Previously Presented) The method of Claim 75, wherein determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible are of the application window comprises:

determining page coordinates of the pre-defined area;

determining a scrolling position and coordinates of the application window; and

determining that the page coordinates of the pre-defined area are within the determined scrolling position and coordinates of the browser window.

79. (Previously Presented) The method of Claim 75, further comprising transmitting data comprising one or more of:

a time period in which the pre-defined area is at least partially within the visible area of the application window;

a time period in which the application window is the primary window open on the display device;

a proportional extent to which the area on the pre-defined area is at least partially within the visible area of the application window;

an indication of whether the application window is obstructed from view on the display device by another application window;

an identification of the viewer;

a geographic location;

a type of the application;

an identification of an operating system of the display device;

a view event duration;

a view event time;

a content rendering frequency;

a content rendering reach;

a viewer click-activity with respect to the one or more content files rendered in the pre-defined area;

dimension of the visible area;

dimension of the application window;

a scrolling position of the application window; and

an in-focus status of the application window.

80. (Previously Presented) One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:

determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.

81. (Previously Presented) The media of Claim 80, wherein the first action comprises one or more of the following:

causing one or more content files to be rendered on the content page;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

82. (Previously Presented) The media of Claim 80, wherein the one or more content files are operable, when rendered on the content page, to display one or more of:

one or more advertisements;

a video;

one or more images; and

text.

83. (Previously Presented) The media of Claim 80, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed; transmitting an indication to the computing system that the pre-defined area is not at

least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	082097.0108	2529

5073 7590 01/20/2016

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EXAMINER	
JOSEPH, SHAWN S	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
01/20/2016	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Panel Decision from Pre-Appeal Brief Review	Application No. 12/316,781	Applicant(s) KRASSNER ET AL.
	Examiner Kavita Padmanabhan	Art Unit 2176

This is in response to the Pre-Appeal Brief Request for Review filed 19 November, 2015.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
☐ The request does not include reasons why a review is appropriate.
☐ A proposed amendment is included with the Pre-Appeal Brief request.
☐ Other: .

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: *23 and 65-83*.
Claim(s) withdrawn from consideration: _____.

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) *Kavita Padmanabhan*.	(3) *Shawn Joseph*.
(2) *Stephen Hong*.	(4)_____.

/Kavita Padmanabhan/
Supervisory Patent Examiner, Art Unit 2176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	Brad Krassner et al.
Application No:	12/316,781
Filing Date:	December 16, 2008
Art Unit:	2176
Confirmation No.:	2529
Examiner:	Shawn S. Joseph
Title:	*Content Rendering Control System and Method*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

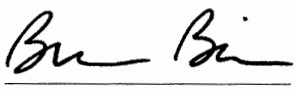
NOTICE OF APPEAL

Applicants hereby appeal to the Patent Trial and Appeal Board from the Final Office Action dated June 19, 2015, finally rejecting pending Claims 23 and 65-83 in the Application. Applicants respectfully request reconsideration.

The Commissioner is authorized to charge $400.00 for this Notice of Appeal. The Commissioner is also hereby authorized to charge the two-month extension-of-time fee of $300.00 to Deposit Account No. 02-0384 of Baker Botts L.L.P., and, to the extent necessary, charge any additional fees and credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Bradley J. Birchfield
Reg. No. 65,521
Tel. 214-953-6570

Dated: November 19, 2015

Correspondence Address:

CUSTOMER NO. **05073**

21933294

Duration Media Ex-1085

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Brad Krassner et al.
Serial No.:	12/316,781
Filing Date:	December 16, 2008
Group Art Unit:	2176
Confirmation No.:	2529
Examiner:	Shawn S. Joseph
Title:	*CONTENT RENDERING CONTROL SYSTEM AND METHOD*

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. The Applicants respectfully request reconsideration and allowance of all pending claims in light of the following remarks.

REMARKS

The Final Office Action dated 19 June 2015 ("Office Action") rejects Claims 23 and 65-83 under 35 U.S.C. § 102 as being anticipated by U.S. Publication No. 2004/0205651 ("*Dutta*"). Applicants respectfully traverse these rejections.

Independent Claim 23

Independent Claim 23 is allowable at least because *Dutta* fails to disclose, teach, or suggest, "***comparing coordinates of the pre-defined area with coordinates of the application window***," as recited in Claim 23 (emphasis added). The Examiner points to ¶¶ 9-10 and figures 5A and 5B of *Dutta* as allegedly teaching this portion of Claim 23. (Office Action, page 3.) Specifically, the Examiner states that "Dutta teaches where an 'application may be

configured to track and detect the user of the client focusing on a portion ... then determine if there are components ... in the portion of the document...that have advertisements and/or specific information associated with the components ... the application may map each of the identified components ... to a particular file storing an advertisement and/ or specific information,' as the user focus is determined." (*Id.*, emphasis in original.) However, this is incorrect. While the cited portions of *Dutta* may disclose detecting whether a user is focusing on a particular object of a document (e.g., a word), they do not disclose, teach, or suggest "***comparing coordinates of the pre-defined area with coordinates of the application window***," as recited in Claim 23. According to cited portions of *Dutta*:

> [0009] The problems outlined above may at least in part be solved in some embodiments by a server transmitting an application that may comprise a Java applet to a client where the application may be configured **to track and detect the user of the client focusing on a portion, such as a particular area or particular word(s), in a document. The application may then determine if there are any components, e.g., terms, in the portion of the document focused on by the user that are in a list of components that have an advertisement and/or specific information associated with the components**. If there are any components in the list focused on by the user, then the application may map each of the identified components, e.g., terms, to a particular file storing an advertisement and/or specific information. The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client. The particular file(s) may be parsed by the browser of the client in order to display the images and graphics on a display as well as generate audio, if any, through speakers. The images and graphics as well as any audio may include context related advertisement(s) or other information related to the content of the user's focus. (*Dutta*, ¶ 10, emphasis added.)

That is, while cited portions of *Dutta* may disclose detecting whether a user is focusing on a particular object in a document (e.g., a word) and then determining if there are any advertisements and/or specific information associated with the word, it does not disclose, teach, or suggest "***comparing coordinates of the pre-defined area with coordinates of the application window***," as recited in Claim 23. In fact, *Dutta* does not disclose "***coordinates*** of [a] pre-defined area" or "***coordinates*** of [an] application window" at all, not to mention comparing these coordinates in order to determine "whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application

window," as required by Claim 23. Instead, *Dutta* merely discloses detecting whether a user is focusing on a particular object based on other factors:

> [0035] In step 505, application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking **based on the movement of a mouse** 326 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking **based on the area of text that may be zoomed by the user** of client 110 using screen magnification software stored locally on client 110, e.g., screen magnification software stored in application 350 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking **based on a CCD camera** 360 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking based on CCD camera 360 and **eye tracking software** stored locally on client 110, e.g., eye tracking software stored in application 350. It is noted that there may be other means of tracking the focus of the user of client 110 and that the above are illustrative. It is further noted that other means of tracking the focus of the user of client 110 would be recognized by an artisan of ordinary skill in the art and that embodiments employing such means would fall within the scope of the present invention.
>
> [0036] In step 506, application 132 may detect the user of client 110 focusing on a portion, for example a particular area or a particular word(s), in the document, e.g., web page, picture, displayed on display 338 in step 503. In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document **based on the user focusing on the portion in the document for a particular duration of time**. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion. In another embodiment, application 132 may determine that the user of client 110 is focusing on a portion in the document **based on the user of client 110 zooming on the portion using screen magnification software stored locally on client 110**, e.g., screen magnification software stored in application 350. (*Dutta*, ¶¶ 35-36, emphasis added.)

That is, while *Dutta* may disclose detecting whether a user is focusing on a particular object based on 1) the movement of a mouse, 2) an area of text that has been zoomed by the user, 3) a CCD camera, or 4) eye tracking software, it does not disclose, teach, or suggest "determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window ***by comparing coordinates of the pre-defined area with coordinates of the application window***," as recited in Claim 23. Consequently, *Dutta* fails to disclose, teach, or suggest each and every element of Claim 23.

For at least these reasons, independent Claim 23 and its dependent claims are allowable. For at least certain analogous reasons, independent Claims 75 and 80 and their dependent claims are also allowable. Accordingly, Applicants respectfully request reconsideration and allowance of all pending claims.

In response to Applicants' prior response, the Examiner erroneously argues in the Office Action that limitations of the claims are "optional elements [that] are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim." (Office Action, page 2-3.) For example, the Examiner cites to MPEP 2111.04 and states:

> Examiner first notes that the language does not require "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area*" to be positively determined, but rather only "*determining whether*" either is the case. Thus, the language is set forth as a conditional or optional occurrence. (Office Action, page 2, emphasis in original.)

This is incorrect. The phrase "determining...whether..." is not a conditional or optional occurrence. Instead, Claim 23 clearly requires "comparing coordinates of the pre-defined area with coordinates of the application window" in order to determine "whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window." Furthermore, the portion of the MPEP relied upon by the Examiner does not specifically mention "whether" as being conditional or optional claim language. *See* MPEP § 2111.04 ("examples of claim language . . . that may raise a question as to the limiting effect of the language in a claim are: (A) 'adapted to' or 'adapted for' clauses; (B) 'wherein' clauses; and (C) 'whereby' clauses.") Accordingly, Applicants respectfully request reconsideration and allowance of all pending claims.

Dependent Claim 67

Claim 67 is additionally allowable at least because *Dutta* fails to disclose, teach, or suggest, "***determining...a scrolling position of the application window on the display device***," as recited in Claim 67. The Examiner points to ¶11 of *Dutta* for this claim, stating that the "[t]racking window position based on mouse movement (scroll position) is used to determine the area of user focus." (Office Action, page 6.) However, this is incorrect. While the cited portion of *Dutta* may disclose movement of a mouse, it does not disclose, teach, or

suggest "***determining...a scrolling position of the application window on the display device***," as recited in Claim 67. According to the cited portion of *Dutta*:

> [0011] The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse. In another embodiment, the application may embody code to perform tracking based on the area of text that may be zoomed by the user of the client using screen magnification software stored locally on the client. In another embodiment, the application may embody code to perform tracking based on a Charge Coupled Device (CCD) camera coupled to the client. In another embodiment, the application may embody code to perform tracking based on the CCD camera coupled to the client and eye tracking software stored locally on the client. (*Dutta*, ¶ 11.)

That is, while the cited portion of *Dutta* may disclose performing tracking of a user's focus based on the movement of a mouse, it does not disclose, teach, or suggest "***determining...a scrolling position of the application window on the display device***," as recited in Claim 67. Consequently, *Dutta* fails to disclose, teach, or suggest each and every element of Claim 67. Accordingly, Applicants respectfully request reconsideration and allowance of this claim.

Conclusion

As the rejections of Claims 23 and 65-83 contain clear legal and factual deficiencies, Applicants respectfully request the Pre-Appeal Board to direct the Examiner to issue a Notice of Allowance for these claims. To the extent necessary, the Commissioner is hereby authorized to charge any necessary fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



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Dated: November 19, 2015

CUSTOMER NO. 05073

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	082097.0108	2529

5073 7590 06/19/2015

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EXAMINER	
JOSEPH, SHAWN S	

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
06/19/2015	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 12/316,781	Applicant(s) KRASSNER ET AL.	
	Examiner Shawn S. Joseph	Art Unit 2176	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *3/2/15*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *23 and 65-83* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *23 and 65-83* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

This communication is responsive to the Application No. 12/316,781 filed on 03/11/2008. Claims 23, 65-83 are pending and presented for examination. This action has been made final.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 65-83 are rejected under 35 U.S.C. 102(2) as being anticipated by Dutta et al., U.S. Pub. US 2004/0205651 A1 (hereinafter, "Dutta").

Claim 23:

Dutta teaches ***A method comprising:***

- ***determining, by code executed by a computing system whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre- defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language

that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where *"a pre-defined area of a content page is either at least partially within a visible area of an application window"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

- ***causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements, and elements depending on their optional occurrence such as *"causing an advertisement to be rendered in the pre-defined area of the content page,"* are not limiting to the claim, and optional elements, and those that depend on their occurrence, need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where *"causing an advertisement to be rendered in the pre-defined area of the content page in response to determining that the pre-defined area is either at least partially within the visible area of the application window"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in

the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus.)

Claim 65:

Dutta teaches ***The method of Claim 23, further comprising:***

- ***by the code, determining, after the advertisement has been rendered in the pre-defined area of the content page, that the pre-defined area is no longer within the visible area of the application window, and in response, taking one or more of the following actions:*** (see[0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." –Since the application tracks the user's focus, when the user takes focus away from the pre-defined area associated with an advertisement, information/indications are sent to the computing system.)
    - ***causing the rendered advertisement to be removed;***
    - ***sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;*** (see[0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." –Since the

application tracks the user's focus, when the user takes focus away from the pre-defined area associated with an advertisement, information/indications are sent to the computing system.)

- ***sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;***
- ***causing the rendered advertisement to be replaced with new content;***
- ***and causing a counter to stop counting an amount of time that the rendered advertisement was visible.***

Claim 66:

Dutta teaches ***The method of Claim 23,***

- ***wherein the content page comprises a webpage and the code comprises code embedded in the webpage.*** (see [0010]-[0011] –"In one embodiment of the present invention, a method for transferring context related information related to the content of a user's focus may comprise the step of a server transmitting a file to a client. The file may then be parsed by a browser of the client in order to display the images and graphics of a document, e.g., web page, picture, on a display of the client as well as generate any audio through speakers. The server may then transmit an application that may comprise a Java applet to the browser of the client. The application may be configured to provide functionality to the document viewed as well as store a list of one or more components, e.g., terms, in the document, e.g., web page, picture, displayed by the client related to an advertisement and/or specific information. The list of one or more components may be stored locally or remotely to the server. The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse. In another embodiment, the application may embody code to perform tracking based on the area of text that may be zoomed by the user of the client using screen magnification software stored locally on the client."—A webpage and code embedded in the webpage, such a Java applet are utilized.)

Claim 67:

Dutta teaches ***The method of Claim 23,***

- ***wherein determining that the pre-defined area of the content page is either at least partially within a visible area of a application window on a display device or is within a pre-defined distance outside of the visible area of the application window comprises determining, by the code, a scrolling position of the application window on the display device.*** (see [0011] –"The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse." –Tracking window position based on mouse movement (scroll position) is used to determine the area of user focus.)

Claim 68:

Dutta teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, a percentage of the pre-defined area that is at least partially within the visible area of the application window.*** (see [0011] –"The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse." –Tracking window position based on mouse movement (scroll position) is used to determine the area of user focus. Thus, the portion or percentage of the pre-defined area within the focus is constantly monitored. In one example, when the pre-defined area is fully within the focus, 100% of the area is determined to be in focus.)

Claim 69:

Dutta teaches ***The method of Claim 23, wherein determining that the pre-defined area of the content page is at least partially within the visible area of the application window comprises:***

- ***determining page coordinates of the pre-defined area;*** (see[0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements

and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." –Since the application tracks the user's focus, page coordinates of areas of interest such as the pre-defined portion must be monitored and determined relative to window coordinates.)

- ***determining a scrolling position and the coordinates of the application window;*** (see [0011] – "The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse." – Tracking window position based on mouse movement (scroll position) is used to determine the area of user focus.)

- ***and determining that the page coordinates of the pre-defined area are at least partially within the determined scrolling position and the coordinates of the application window.*** (see[0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." – Since the application tracks the user's focus, page coordinates of areas of interest such as the pre-defined portion must be monitored and determined relative to window coordinates.)

Claim 70:

Dutta teaches ***The method of Claim 23, wherein causing the advertisement to be rendered in the pre-defined area of the content page comprises:***

- ***retrieving, by the code, one or more content files and rendering the one or more content files in the pre-defined area of the content page.*** (see [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified

components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus.)

Claim 71:

Dutta teaches ***The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:***

- ***an operating system running on the display device;***
- ***a type of a browser;***
- ***a version of a browser;***
- ***and a list of other content already rendered on the content page.*** (see [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus. Since the system tracks the user focus to determine rendering, it must maintain information regarding what has been rendered.)

Claim 72:

Dutta teaches ***The method of Claim 23,***

- ***wherein the code determines that the pre- defined area of the content page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the pre-defined area of the content page.*** (see [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus. Content rendering is determined based on the user focus and therefore occurs only after the determination of the focus area.)

Claim 73:

Dutta teaches ***The method of Claim 23, further comprising***

- ***determining, by the code, an amount of time that the advertisement is at least partially visible on the display device.*** (see [0036] –"In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document based on the user focusing on the portion in the document for a particular duration of time. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion.")

Claim 74:

Dutta teaches ***The method of Claim 23,***

- ***wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window*** (see [0004] –"A computer user may "browse " , i.e. navigate around, the WWW by utilizing a suitable web browser, e.g., Netscape Navigator™, Internet Explorer™, and a network gateway, e.g., Internet Service Provider (ISP). A web browser allows the user to specify or search for a web page on the WWW and subsequently retrieve and display web pages on the user's computer screen.") ***and scrolling position coordinates of the browser window.*** (see [0011] –"The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse." – Tracking window position based on mouse movement (scroll position) is used to determine the area of user focus.)

Claim 75:

Dutta teaches ***A method comprising***

- ***determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim.

Nonetheless, Dutta teaches where *"a pre-defined area of a content page is either at least partially within a visible area of an application window"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

- ***by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements, and elements depending on their optional occurrence such as *"taking a first action,"* are not limiting to the claim, and optional elements, and those that depend on their occurrence, need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where *"taking a first action"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular

file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus.)

- ***and by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.*** (Examiner first notes that the language does not require "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window*" to be positively determined, but rather only "*determining whether*" either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements, and elements depending on their optional occurrence such as "*taking a first action,*" are not limiting to the claim, and optional elements, and those that depend on their occurrence, need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where "*taking a second action*" at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." –Thus, for example, when the first described pre-determined area is not within the visible area, other actions are taken- for example, other advertisement information is transmitted to the user based on the user focus on the different area.)

Claim 76:

Dutta teaches ***The method of Claim 75, wherein the first action comprises one or more of the following:***

- ***causing an advertisement to be rendered on the content page;*** (see [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus and rendered.)

- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;***

- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.***

Claim 77:

Dutta teaches ***The method of Claim 75, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed;***

- ***transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;***

- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;***

- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;*** (see [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." –Thus, for example, when the first described pre-determined area is not within the visible area, other actions are taken- for example, other advertisement information is transmitted to the user based on the user focus on the different area.)

- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0036] –"In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document based on the user focusing on the portion in the document for a particular duration of time. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion.")

Claim 78:

Dutta teaches ***The method of Claim 75, wherein determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window comprises***

- ***determining page coordinates of the pre-defined area;*** (see[0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified

components... to a particular file storing an advertisement and/or specific information." –Since the application tracks the user's focus, page coordinates of areas of interest such as the pre-defined portion must be monitored and determined relative to window coordinates.)

- ***determining a scrolling position and coordinates of the application window;*** (see [0011] –"The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse." – Tracking window position based on mouse movement (scroll position) is used to determined the area of user focus.)

- ***and determining that the page coordinates of the pre-defined area are within the determined scrolling position and coordinates of the application window.*** (see[0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." –Since the application tracks the user's focus, page coordinates of areas of interest such as the pre-defined portion must be monitored and determined relative to window coordinates.)

Claim 79:

Dutta teaches ***The method of Claim 75, further comprising transmitting data comprising one or more of:***

- ***a time period in which the pre-defined area is at least partially within the visible area of the application window*** (see [0036] –"In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document based on the user focusing on the portion in the document for a particular duration of time. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion.")

- ***a time period in which the application window is the primary window open on the display device;***
- ***a proportional extent to which the pre-defined area is at least partially within the visible area of the application window;***
- ***an indication of whether the application window is obstructed from view on the display device by another application window;***
- ***an identification of a viewer;***
- ***a geographic location;***
- ***a type of the application;***
- ***an identification of an operating system of the display device;***
- ***a view event duration;*** (see [0036] –"In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document based on the user focusing on the portion in the document for a particular duration of time. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion.")
- ***a view event time;***
- ***a content rendering frequency;***
- ***a content rendering reach;***
- ***a viewer click-activity with respect to one or more content files rendered in the a pre- defined area;***
- ***dimension of the visible area;***
- ***dimension of the application window;***
- ***a scrolling position of the application window;*** (see [0011] –"The application may be further configured to track the focus of the user of the client in the document. In one embodiment, the application may embody code to perform tracking based on the movement of a mouse." –Tracking window position based on mouse movement (scroll position) is used to determined the area of user focus.)

- ***and an in-focus status of the application window.***

Claim 80:

Dutta teaches ***One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:***

- ***determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;*** (Examiner first notes that the language does not require *"a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window"* to be positively determined, but rather only *"determining whether"* either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements are not limiting to the claim, and optional elements need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where *"a pre-defined area of a content page is either at least partially within a visible area of an application window"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined.)

- ***taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside***

of the visible area of the application window; (Examiner first notes that the language does not require "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window*" to be positively determined, but rather only "*determining whether*" either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements, and elements depending on their optional occurrence such as "*taking a first action,*" are not limiting to the claim, and optional elements, and those that depend on their occurrence, need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where "*taking a first action*" at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus.)

- ***and taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.*** (Examiner first notes that the language does not require "*a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window*" to be positively determined, but rather only

"determining whether" either is the case. Thus, the language is set forth as a conditional or optional occurrence. Examiner notes, "Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." See MPEP 2111.04. Thus, under the Broadest Reasonable Interpretation of the current claim language, the above optional elements, and elements depending on their optional occurrence such as *"taking a first action,"* are not limiting to the claim, and optional elements, and those that depend on their occurrence, need not be taught by the prior art to meet the claim. Nonetheless, Dutta teaches where *"taking a second action"* at [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." –Thus, for example, when the first described pre-determined area is not within the visible area, other actions are taken- for example, other advertisement information is transmitted to the user based on the user focus on the different area.)

Claim 81:

Dutta teaches ***The media of Claim 80, wherein the first action comprises one or more of the following:***

- ***causing one or more content files to be rendered on the content page;*** (see [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to

transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus and rendered.)

- ***transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window;***
- ***and transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.***

Claim 82:

Dutta teaches ***The media of Claim 80, wherein the one or more content files are operable, when rendered on the content page, to display one or more of:***

- ***one or more advertisements*** (see [0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information," as the user focus is determined. Further, Dutta teaches, "The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client." Thus the advertisement information is transmitted to the user based on the user focus.)
- ***a video;***
- ***one or more images;***
- ***and text.***

Claim 83:

Dutta teaches ***The media of Claim 80, wherein the second action comprises one or more of the following:***

- ***causing an advertisement previously-rendered in the pre-defined area to be removed***
- ***transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;***
- ***transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;*** (see[0009]-[0010], Figs. 5A & 5B. Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." –Since the application tracks the user's focus, when the user takes focus away from the pre-defined area associated with an advertisement, information/indications are sent to the computing system.)
- ***causing an advertisement previously-rendered in the pre-defined area to be replaced with new content;***
- ***and causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.*** (see [0036] –"In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document based on the user focusing on the portion in the document for a particular duration of time. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion.")

Response to Arguments

Applicant's arguments have been fully considered but they are moot in view of new grounds of rejection. Nonetheless, select arguments are addressed below.

Applicant appears to rely mainly on the limitation, ***"determining, by code executed by a computing system whether a pre-defined area of a content page is either (1) at least partially within a visible area of an application window on a display device or (2) is within a pre- defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;"***

However, under the Broadest Reasonable Interpretation, the claim language appears to set forth the two elements (1) and (2) as conditional limitations, as detailed in the rejection above. Further, even if the conditional terminology "determining whether..." were removed, the two elements would still appear to be set forth as alternatives using "or" language. Thus, this breeds no limiting nature for the limitation relied upon by Applicant.

Accordingly, Applicant's argument is not persuasive.

Conclusion

Examiner notes that any reference to specific figures, columns and lines should not be considered limiting in any way, and that each entire reference is considered to provide disclosure relating to the claimed invention. Therefore, each piece of cited relevant art must be considered in entirety.

Applicant's amendment necessitated any new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN JOSEPH whose telephone number is (571) 270-7591. The examiner can normally be reached on Monday-Friday, 9:00 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kavita Padmanabhan can be reached on (571) 272-8352. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shawn S. Joseph/

Examiner, Art Unit 2176

/Kavita Padmanabhan/

Supervisory Patent Examiner, Art Unit 2176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Brad Krassner et al.
Serial No.:	12/316,781
Filing Date:	December 16, 2008
Group Art Unit:	2176
Confirmation No.:	2529
Examiner:	Shawn S. Joseph
Title:	CONTENT RENDERING CONTROL SYSTEM AND METHOD

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

RESPONSE PURSUANT TO 37 C.F.R. § 1.111

In response to the Office Action dated 30 October 2014, Applicants respectfully request the Examiner to reconsider the rejection of the claims in view of the following amendments and comments set forth below. Please amend the Application as follows.

REMARKS

This application has been carefully reviewed in light of the Office Action dated 30 October 2014 ("Office Action"). Applicants appreciate the Examiner's consideration of the Application. Claims 1-64 are rejected in the Office Action. To advance prosecution of this application, Applicants amend Claim 23 and cancel Claims 1-22 and 24-64. In addition, Applicants add Claims 65-83, which do not add any new subject matter. Applicants do not admit that the amendments are necessary due to the cited references or any of the Examiner's rejections. Applicants respectfully traverse the rejections and request reconsideration and allowance of all pending claims and consideration and allowance of all new claims.

Request for Interview

If, in response to Applicants' present submission, the Examiner intends to issue a new Office Action rejecting some or all of the pending claims, in the interest of efficient prosecution, Applicants respectfully request that the Examiner contact Applicants' attorney prior to issuing the new Office Action to discuss a possible resolution to any outstanding issues.

Summary of Interview

Applicants, through its attorney, Bradley J. Birchfield (Reg. No. 65,521), interviewed Examiner Joseph on or about 21 January 2015 ("*Examiner Interview*"). Applicants appreciate Examiner Joseph's courtesy and professionalism during the Examiner Interview. During the Examiner Interview, the participants discussed the application, the rejections of the claims, the cited references, and potential amendments to the claims. No specific agreement was reached.

Applicant submits this additional summary in response to the Examiner's Interview Summary dated January 27, 2015. Applicants generally accept the Examiner's summary of the telephonic interview, except as clarified by the following. To the extent the Examiner's Interview Summary could be interpreted as suggesting that Applicants' invention is limited to embodiments having the features stated in the Examiner's Interview Summary, Applicants do not admit that Applicants' invention is limited to these embodiments. Moreover, Applicants do not admit that any amendments stated in the Examiner's Interview Summary were

discussed in response to or necessitated by any cited reference or combination of cited references.

Section 112 Rejections

The Office Action rejects Claims 1-64 under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter of which applicant regards as the invention. Applicants respectfully traverse these rejections. However, in order to advance prosecution, Claim 23 has been amended and Claims 1-22 and 24-64 have been cancelled, thereby rendering these rejections moot. Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. § 112 be withdrawn.

Section 101 Rejections

The Office Action rejects Claims 38-53 and 62-63 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse these rejections. However, in order to advance prosecution, Applicants cancel Claims 38-53 and 62-63, thereby rendering these rejections moot. Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. § 101 be withdrawn.

Section 103 Rejections

The Office Action rejects Claims 1-11, 21, 23-26, 37-49, 60-63 under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art ("*AAPA*") in view of US. Patent Application Publication No. 2004/0205651 ("*Dutta*") in view of "Implementing Dynamic Scroll with Ajax, JavaScript, and XML" ("*Kofman*"). The Office Action rejects the remaining claims under 35 U.S.C. § 103(a) as being unpatentable over *AAPA* in view of *Dutta*, *Kofman*, and other references. Applicants respectfully traverse these rejections and discuss amended independent Claim 23 below as an example.

Applicants respectfully submit that amended independent Claim 23 is allowable at least because the proposed *AAPA-Dutta-Kofman* combination fails to disclose, teach, or suggest, expressly or inherently, elements specifically recited in Applicants' claims. For example, the proposed *AAPA-Dutta-Kofman* combination fails to disclose at least the following limitations recited in amended Claim 23 (**emphasis added**):

> determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window ***by comparing coordinates of the pre-defined area with coordinates of the application window***.

The Office Action points to ¶¶ [0009]-[0010] and figures 5A and 5B of *Dutta* as allegedly teaching a previous version of this portion of Claim 23. (Office Action, page 19.) Specifically, the Office Action states that "[t]he application tracks and detects user focus on document portions and therefore monitors the dimensions and scrolling position of the browser window." (*Id.*) Whether or not those rejections and statements were appropriate (and Applicants make no admission that they were), the cited portions of *Dutta* do not disclose "determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window ***by comparing coordinates of the pre-defined area with coordinates of the application window***," as recited in amended Claim 23. According to portions of *Dutta*:

> [0009] The problems outlined above may at least in part be solved in some embodiments by a server transmitting an application that may comprise a Java applet to a client where the application may be configured to track and detect the user of the client focusing on a portion, such as a particular area or particular word(s), in a document. The application may then determine if there are any components, e.g., terms, in the portion of the document focused on by the user that are in a list of components that have an advertisement and/or specific information associated with the components. If there are any components in the list focused on by the user, then the application may map each of the identified components, e.g., terms, to a particular file storing an advertisement and/or specific information. The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client. The particular file(s) may be parsed by the browser of the client in order to display the images and graphics on a display as well as generate audio, if any, through speakers. The images and graphics as well as any audio may include context related advertisement(s) or other information related to the content of the user's focus.
>
> [0010] In one embodiment of the present invention, a method for transferring context related information related to the content of a user's focus may comprise the step of a server transmitting a file to a client. The file may then

be parsed by a browser of the client in order to display the images and graphics of a document, e.g., web page, picture, on a display of the client as well as generate any audio through speakers. The server may then transmit an application that may comprise a Java applet to the browser of the client. The application may be configured to provide functionality to the document viewed as well as store a list of one or more components, e.g., terms, in the document, e.g., web page, picture, displayed by the client related to an advertisement and/or specific information. The list of one or more components may be stored locally or remotely to the server.

[0035] In step 505, application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking **based on the movement of a mouse** 326 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking **based on the area of text that may be zoomed by the user** of client 110 using screen magnification software stored locally on client 110, e.g., screen magnification software stored in application 350 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking **based on a CCD camera** 360 (FIG. 3). In another embodiment, application 132 may embody code to perform tracking based on CCD camera 360 and **eye tracking software** stored locally on client 110, e.g., eye tracking software stored in application 350. It is noted that there may be other means of tracking the focus of the user of client 110 and that the above are illustrative. It is further noted that other means of tracking the focus of the user of client 110 would be recognized by an artisan of ordinary skill in the art and that embodiments employing such means would fall within the scope of the present invention.

[0036] In step 506, application 132 may detect the user of client 110 focusing on a portion, for example a particular area or a particular word(s), in the document, e.g., web page, picture, displayed on display 338 in step 503. In one embodiment, application 132 may determine that the user of client 110 is focusing on a portion of in the document **based on the user focusing on the portion in the document for a particular duration of time**. For example, if the user of client 110 focuses on a portion for a particular duration of time, e.g., 10 seconds, then application 132 may determine that user of client 110 is focusing on that portion. In another embodiment, application 132 may determine that the user of client 110 is focusing on a portion in the document **based on the user of client 110 zooming on the portion using screen magnification software stored locally on client 110**, e.g., screen magnification software stored in application 350.

(*Dutta*, ¶¶ [0009]-[0010] and [0035]-[0036], emphasis added.) That is, while cited portions of *Dutta* may disclose detecting whether a user is focusing on a particular object based on 1) the movement of a mouse, 2) an area of text that has been zoomed by the user, 3) a CCD camera, or 4) eye tracking software, it does not disclose, teach, or suggest "determining, by

code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window ***by comparing coordinates of the pre-defined area with coordinates of the application window***," as recited in amended Claim 23. The cited portions of *AAPA* and *Kofman* fail to cure these deficiencies of *Dutta*. Consequently, the proposed *AAPA-Dutta-Kofman* combination fails to disclose, teach, or suggest each and every element of amended Claim 23.

For at least these reasons, amended independent Claim 23 and its dependent claims are allowable. For at least certain analogous reasons, new independent Claims 75 and 80 and their dependent claims are also allowable. Accordingly, Applicants respectfully request reconsideration and allowance of all pending claims.

No Waiver

Applicants' arguments and amendments are made without prejudice or disclaimer. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the additional statements. The distinctions between the applied references and the claims are provided as examples only and are sufficient to overcome the rejections. Applicants reserve the right to discuss additional or other distinctions in a later response or on appeal, if appropriate.

Request for Evidentiary Support

Should any of the above asserted rejections be maintained, Applicants respectfully request appropriate evidentiary support. Additionally, if the Examiner is relying upon "common knowledge" or "well known" principles to establish a rejection, Applicants request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. Furthermore, to the extent that the Examiner maintains any rejection based on an "Official Notice" or other information within the Examiner's personal knowledge, Applicants respectfully request that the Examiner cite a reference as documentary evidence in support of this position or provide an affidavit in accordance with M.P.E.P. § 2144.03 and 37 C.F.R. 1.104(d)(2).

CONCLUSION

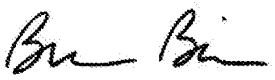
Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner believes a telephone conference would advance prosecution of this Application in any way, the Examiner is invited to contact Bradley J. Birchfield, Attorney for Applicants, at (214) 953-6570, at the Examiner's convenience.

The Commissioner is hereby authorized to charge a one-month extension of time fee of $100 to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P. Applicants believe no fees to be currently due, however, the Commissioner is hereby authorized to charge any other necessary additional fees and credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Bradley J. Birchfield
Reg. No. 65,521
Tel. 214-953-6570

Date: 02 March 2015

CORRESPONDENCE ADDRESS:

Customer Number: **05073**

IN THE CLAIMS:

1. - 22. (**Canceled**)

23. (**Currently Amended**) A method ~~for controlling the rendering of content via an electronic communication network,~~ comprising ~~the steps of~~:

~~receiving via a user interface of a computer system having one or more computer processors and one or more software application, data designating: (i) one or more electronic content pages having one or more content page rendering areas within a said electronic content page, (ii) one or more of said content page rendering areas and (iii) one or more electronic content files, said electronic content files being previously stored at a server;~~

~~storing as a record within a database said data designating a said content page, said one or more content page rendering areas and said one or more content files;~~

~~generating at said computer system end a tag/link for placement on said designated electronic content page;~~

~~causing a software application at said computer system to execute in response to said tag/link being activated by a viewer request for said designated electronic content page, wherein said viewer makes said request via an electronic communications device communicating via said electronic communications network, said electronic communications device having display screen displaying a browser window for a perceiving electronic content pages within the area of said window defined by said window's dimensions and scrolling position;~~

~~retrieving, via said software application, data from said stored record;~~

~~retrieving data pertaining to said viewer browser from said viewer's electronic content page request;~~

~~generating via a software application at said computer system end a correlator code for embedding at said content page for determining whether a said designated content rendering area of said designated electronic content page is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device;~~

~~monitoring, via said correlator~~ **determining, by** code **executed by a computing system**~~at said designated content page~~, whether ~~said designated~~ **a pre-defined area of a** content page ~~rendering area~~ is **either at least partially** within ~~the dimensions and scrolling position~~ **a visible area** of **an application window on a** ~~the browser window displayed on the~~ display **device**~~screen of the viewer's electronic communications device~~ **or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window**;

causing **an advertisement** ~~said designated electronic content files~~ to be rendered ~~at said designated~~ **in the pre-defined area of the** content page ~~rendering area of said designated electronic content page if said correlator code determines~~ **in response to determining** that ~~said designated content page rendering area is at least partially within said window dimensions and scrolling position.~~**the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.**

24. - 64. (**Canceled**)

65. (**New**) The method of Claim 23, further comprising:

by the code, determining, after the advertisement has been rendered in the pre-defined area of the content page, that the pre-defined area is no longer within the visible area of the application window, and in response, taking one or more of the following actions:

causing the rendered advertisement to be removed;

sending an indication to the computing system that the pre-defined area is no longer within the visible area of the application window;

sending an indication to another computing system that the pre-defined area is no longer within the visible area of the application window;

causing the rendered advertisement to be replaced with new content; and

causing a counter to stop counting an amount of time that the rendered advertisement was visible.

66. (**New**) The method of Claim 23, wherein the content page comprises a webpage and the code comprises code embedded in the webpage.

67. (**New**) The method of Claim 23, wherein determining that the pre-defined area of the content page is either at least partially within a visible area of a application window on a display device or is within a pre-defined distance outside of the visible area of the application window comprises determining, by the code, a scrolling position of the application window on the display device.

68. (**New**) The method of Claim 23, further comprising determining, by the code, a percentage of the pre-defined area that is at least partially within the visible area of the application window.

69. (**New**) The method of Claim 23, wherein determining that the pre-defined area of the content page is at least partially within the visible area of the application window comprises:

determining page coordinates of the pre-defined area;

determining a scrolling position and the coordinates of the application window; and

determining that the page coordinates of the pre-defined area are at least partially within the determined scrolling position and the coordinates of the application window.

70. (**New**) The method of Claim 23, wherein causing the advertisement to be rendered in the pre-defined area of the content page comprises retrieving, by the code, one or more content files and rendering the one or more content files in the pre-defined area of the content page.

71. (**New**) The method of Claim 23, further comprising collecting, by the code, data from the application window, the data comprising one or more of:

an operating system running on the display device;

a type of a browser;

a version of a browser; and

a list of other content already rendered on the content page.

72. (**New**) The method of Claim 23, wherein the code determines that the pre-defined area of the content page is either at least partially within the visible area of the application window on the display device or is within the pre-defined distance outside of the visible area of the application window before any content is rendered within the pre-defined area of the content page.

73. (**New**) The method of Claim 23, further comprising determining, by the code, an amount of time that the advertisement is at least partially visible on the display device.

74. (**New**) The method of Claim 23, wherein the application window is a browser window and coordinates of the application window comprise dimensional coordinates of the browser window and scrolling position coordinates of the browser window.

75. (**New**) A method comprising:

determining, by code executed by a computing system, whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

by the code, taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

by the code, taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.

76. (**New**) The method of Claim 75, wherein the first action comprises one or more of the following:

causing an advertisement to be rendered on the content page;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

77. (**New**) The method of Claim 75, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed;

transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.

78. (**New**) The method of Claim 75, wherein determining that the pre-defined area of the content page is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window comprises:

determining page coordinates of the pre-defined area;

determining a scrolling position and coordinates of the application window; and

determining that the page coordinates of the pre-defined area are within the determined scrolling position and coordinates of the application window.

79. (**New**) The method of Claim 75, further comprising transmitting data comprising one or more of:

a time period in which the pre-defined area is at least partially within the visible area of the application window;

a time period in which the application window is the primary window open on the display device;

a proportional extent to which the pre-defined area is at least partially within the visible area of the application window;

an indication of whether the application window is obstructed from view on the display device by another application window;

an identification of a viewer;

a geographic location;

a type of the application;

an identification of an operating system of the display device;

a view event duration;

a view event time;

a content rendering frequency;

a content rendering reach;

a viewer click-activity with respect to one or more content files rendered in the a pre-defined area;

dimension of the visible area;

dimension of the application window;

a scrolling position of the application window; and

an in-focus status of the application window.

80. (**New**) One or more computer-readable non-transitory storage media embodying software this is operable when executed by one or more computer systems to:

determine whether a pre-defined area of a content page is either at least partially within a visible area of an application window on a display device or is within a pre-defined distance outside of the visible area of the application window by comparing coordinates of the pre-defined area with coordinates of the application window;

taking a first action in response to determining that the pre-defined area is either at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

taking a second action in response to determining that the pre-defined area is not at least partially within the visible area of the application window, the second action being different from the first action.

81. (**New**) The media of Claim 80, wherein the first action comprises one or more of the following:

causing one or more content files to be rendered on the content page;

transmitting an indication to another computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window; and

transmitting an indication to the computing system that the pre-defined area is at least partially within the visible area of the application window or is within the pre-defined distance outside of the visible area of the application window.

82. (**New**) The media of Claim 80, wherein the one or more content files are operable, when rendered on the content page, to display one or more of:

one or more advertisements;

a video;

one or more images; and

text.

83. (**New**) The media of Claim 80, wherein the second action comprises one or more of the following:

causing an advertisement previously-rendered in the pre-defined area to be removed;

transmitting an indication to the computing system that the pre-defined area is not at least partially within the visible area of the application window;

transmitting an indication to another computing system that the pre-defined area is not at least partially within the visible area of the application window;

causing an advertisement previously-rendered in the pre-defined area to be replaced with new content; and

causing a counter to stop counting an amount of time that an advertisement previously-rendered in the pre-defined area was visible.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	082097.0108	2529

5073 7590 01/27/2015

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EXAMINER	
JOSEPH, SHAWN S	

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
01/27/2015	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
ptomail2@bakerbotts.com

Applicant-Initiated Interview Summary	**Application No.** 12/316,781	**Applicant(s)** KRASSNER ET AL.	
	Examiner Shawn S. Joseph	**Art Unit** 2176	

All participants (applicant, applicant's representative, PTO personnel):

(1) *Shawn S. Joseph*. (3)_____.

(2) *Brad Birchfield*. (4)_____.

Date of Interview: *21 January 2015*.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☒ No.
If Yes, brief description: _____.

Issues Discussed ☐101 ☐112 ☐102 ☒103 ☐Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: *1*.

Identification of prior art discussed: *Kofman*.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

See Continuation Sheet.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/Shawn S. Joseph/ Examiner, Art Unit 2176	

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant summarized claimed invention as follows: Determine whether an ad is viewable, publishers pay regardless of whether the user actually sees it, so advertiser pays even if the ad is below the fold, correlator code looks at content rendering area, where the ad will be placed and does not render the ad until
1. becomes visible on the screen
2. or becomes within a certain distance outside the viewing area (close to the screen)

Then correlator code fetches ad.

Fig 20 tells you how long the ad was on the screen

If a browser is shrunken and moved to where part is off screen, then the invention will determine if something is off screen, fig. 1

Applicant suggested intention to include significant amendment, subject matter such as:

Determine whether a predefined area is partially within a visible area, or within a predefined distance outside area, by comparing with the coordinates of the actual window

Examiner recommended to remove prior art elements that make claim wordy, and to include detail of window coordinates.

Applicant also suggested amendment to include: time the ad is visible

Applicant noted allowed child application, and pending child of that 13/731,742

Applicant noted amendment to claims that will be entered might include similar subject matter as the listed case above.

Applicant further noted, declaration filed swearing behind Kofman reference in that application, and further inventors have filed declarations of commercial success in that child application, has good industry applications. Examiner noted to visit these documents.

No agreement was reached beyond the above.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/316,781	12/16/2008	Brad Krassner	082097.0108	2529

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ART UNIT	**PAPER NUMBER**
2176	

NOTIFICATION DATE	DELIVERY MODE
10/30/2014	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
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Office Action Summary	Application No. 12/316,781	Applicant(s) KRASSNER ET AL.	
	Examiner Shawn S. Joseph	Art Unit 2176	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *8/5/14*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *1-64* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-64* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date *11/02/12, 02/14/13, 12/11/13*.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

This communication is responsive to the Request for Continued Examination for Application No. 12/316,781 filed on 08/05/2014. Claims 1-64 are pending in this Application.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/05/2014 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-64 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1:

It is unclear whether the correlator code in "**a correlator code that is written to said designated electronic content page**" refers to the aforementioned correlator code in "**and cause a correlator code to be generated for writing to said designated electronic content page,**" or to another correlator code.

It is unclear whether the system software application in "**wherein said tag is placed to a said system software application**" refers to the aforementioned system software application due to the simultaneous use of the article "a" and "said." The same deficiency appears throughout the claims, such as in

"**one or more content rendering areas within a said electronic content page**," and, "**said tag having a reference to a said stored data record and a link to said system software application.**" The same deficiency can be found in other independent claims such as 23, 41 and 54. Applicant is required to thoroughly review all claims.

Further, "**having reference to a said stored data record**" lacks antecedent basis.

Claims 2-22 inherit the deficiency in claim 1.

Claims 24-37, 61 inherit the deficiency in claim 23.

Claims 42-59, 63-64 inherit the example deficiency in claim 41 and 54.

Claim 7:

Claim 7 provides, "**triggering areas is within**" which lacks antecedent basis.

Claim 23:

Claim 23 continues to express the deficiency containing "**tag/link**" as described in previous office actions. It is unclear whether a "tag" is an alternative to a "link," or a "tag" which is also a "link" is described in the claims, etc.

Claims 24-37, 61 inherit the deficiency.

Claim 38:

Claim 38 provides, "***said code also monitoring whether said content is rendered within said designated rendering are and causing data pertaining to said monitoring to be sent via said network***" which makes no sense.

Claims 39-40, 62 inherit the deficiency.

Accordingly, all claims express indefinite subject matter. Appropriate review and correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 38-53, 62-63 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 38-40, 62:

In summary, Claims 38-40, 62 provide a system comprising a "computer system" and "code." The Specification fails to further define these units as hardware components, or as to require the use of hardware, under the broadest reasonable interpretation by one of ordinary skill in the art. Therefore, Claims 38-40, 62 are directed to software.

Accordingly, Claims 38-40, 62 are directed to non-statutory subject matter under 35 U.S.C. 101 as *software per se*.

Claims 41-53:

In summary, Claims 41-53, 63 provide a system comprising a "a system-end computer comprising one or more computer processing units and one or more software applications" and "code." The Specification fails to further define these units as hardware components, or as to require the use of hardware, under the broadest reasonable interpretation by one of ordinary skill in the art. Therefore, Claims 41-53, 63 are directed to software.

Accordingly, Claims 41-53, 63 are directed to non-statutory subject matter under 35 U.S.C. 101 as *software per se*.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-11, 21, 23-26, 37-49, 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (hereinafter, "AAPA"), in view of Dutta et al.,U.S. Pub. US 2004/0205651 A1 (hereinafter, "Dutta"), in view of Kofman, "Implementing Dynamic Scroll with Ajax, JavaScript, and XML," June 6, 2007, (hereinafter, "Kofman").

Claim 1:

AAPA teaches ***A system for controlling and monitoring the rendering of content files via an electronic communications network comprising***

- ***a system-end computer comprising one or more computer processors and one or more software applications, said system-end computer communicating with one or more servers, databases and electronic content pages,*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code, such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user

actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.") ***said electronic content pages having one or more content rendering areas within a said electronic content page, said electronic content pages being remotely accessible via said electronic communications network, by a viewer using an electronic communications device having a display screen displaying a browser window with an area defined by said window's dimensions and scrolling position for perceiving said electronic content pages*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code, such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.")

Dutta teaches where AAPA does not expressly state:

- ***a system user interface for receiving data designating (i) one or more of said electronic content pages; (ii) one or more of said content rendering areas within a said electronic content pages, and (iii) one or more electronic content files stored at said server, and for creating a record containing said data for storage in a said database;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application

may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files storing specific information are content files. Examiner notes that the given limitation is largely met by the fact that a document exists on the server. In order for a document to be stored on a server, there must exists a user interface for its input. The electronic document itself is an electronic content page with content rendering areas since it is eventually displayed to a user. The document's location is a "record" of the document.)

- ***a tag for placement on a said designated electronic content page, said tag having a reference to a said stored data record and a link to said system software application, said tag causing a communication to be sent from said electronic content page wherein said tag is placed to a said system software application in response to a request by a viewer for the electronic content page where said tag is placed;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information.)
- ***said system software application executing in response to receiving said communication from said tag to retrieve said data from said stored data record referenced in said tag,*** (see Above Citation)

AAPA and Dutta are analogous art pertaining to web content retrieval. Further, AAPA and Dutta pertain to web content retrieval over a network.

Dutta teaches "method, system and computer program product for transferring advertisements

and/or specific information over a network." Since Dutta calls for information transfer via a network, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA and Dutta simply for understanding technical features of network delivery already called for in Dutta, outlined in AAPA.

Dutta teaches where "application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking based on the movement of a mouse 326 (FIG. 3)." Kofman more clearly teaches:

- ***and cause a correlator code to be generated for writing to said designated electronic content page;*** (Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Body HTML is generated. Examiner notes that the terminology to "cause a correlator code to be generated" includes any code that is referenced when a particular page is called, under the Broadest Reasonable Interpretation. This is because to say "code is generated" is not only extremely broad, but also an abstract concept. For example, when high-level programming languages, such as those that might found in a web page source code, are converted for execution into assembly language and further into machine code, the machine code is being "generated." From this perspective, we can see that anytime a web page is processed by the machine, "code is generated." In another example, when source file data is being read from its stored configuration, it can also be said that "code is generated." One example of this can be when a stored JavaScript function or HTML in a source file is retrieved upon the source file request. The JavaScript interpreter of a browser can be said to be "generating code" and the rendering engine can be said

to "generate code" when HTML is parsed and converted into DOM nodes. In other words, at so many stages in the information transfer during a web page request, "code is generated." The machine or assembly code further "correlates" to the programming language.)

- ***a correlator code that is written to said designated electronic content page, which determines, via retrieval of information from said viewer's browser, whether a predefined portion of said content rendering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, and causes said one or more electronic content files designated in said stored data record to be rendered at said designated content rendering area if said predefined portion of said content rendering area is determined to be within said dimensions and scrolling position.*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the

helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect.)

AAPA, Dutta, and Kofman are analogous art pertaining to web content retrieval. Further, AAPA, Dutta, and Kofman pertain to web content retrieval over a network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta, with those of Kofman for the purposes of convenience in implementing pages with much content (see page 1, Kofman). Further, AAPA, in view of Dutta, seeks to deliver content to the user based on the user's focus. Kofman teaches exactly one such method of content delivery based on user focus. Further, Kofman provides a coding tutorial, demonstrating that its implementation is versatile and can be readily applied to contexts such as those described in AAPA, in view of Dutta, with a predictable outcome.

Claim 2:

Dutta teaches ***The system of claim 1,***

- ***wherein said software applications further comprise a content rendering module software application that is embedded at a said designated content rendering area and wherein if said correlator code determines that a predefined portion of said designated content page rendering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, said content rendering module communicates with a content servers to retrieve and render a said designated electronic content file at said specified content rendering area.***

(see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or

specific information."---- The document is a content page where portions of the document are content rendering areas. Files soring specific information are content files.)

Claim 3:

Kofman teaches ***The system of claim 1,***

- ***wherein said correlator code retrieves content rendering activity data from said viewer's browser, for sending from said content page via said electronic communications network.*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers."--- Thus, Kofman teaches access of CSS properties, or "rendering activity data," via browser APIs.)

Claim 4:

Kofman teaches ***The system of claim 2,***

- ***wherein said content rendering module receives content rendering activity data from said correlator code via retrieval of said data by said correlator code from said viewer's browser for sending from said content page via said electronic communications network.*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers."--- Thus, Kofman teaches access of CSS properties, or "rendering activity data," via browser APIs.)

Claim 5:

Dutta teaches ***The system of claim 3,***

- ***wherein said content rendering activity data is sent to said server via file server direct connection communication.*** (see [0024]--Dutta provides, "FIG. 1 illustrates an embodiment of the present invention of a network system 100. Network system 100 may comprise a client 110 connected to a server 130 via a network 120. Network 120 may be a Local Area Network (LAN), e.g., Ethernet, Token Ring, ARCnet, or a Wide Area Network (WAN), e.g., Internet. It is noted that the Internet may refer to a network of computers. It is further noted that the connection between client 110 and server 130 may be any medium type, e.g., wireless, wired. It is further noted that client 110 may be any type of device, e.g., wireless, Personal Digital Assistant (PDA), cell phone, personal computer system, workstation, Internet appliance, configured with the capability of connecting to network 120 and consequently communicating with server 130. It is further noted that network system 100 may be any type of system that has at least one server and at least one client and that FIG. 1 is not to be limited in scope to any one particular embodiment."--- A wired connection is a "direct connection communication," under the Broadest Reasonable Interpretation.)

Claim 6:

Dutta teaches ***The system of claim 4,***

- ***wherein said content rendering activity data is sent to said server via file server direct connection communication.*** (see [0024]--Dutta provides, "FIG. 1 illustrates an embodiment of the present invention of a network system 100. Network system 100 may comprise a client 110 connected to a server 130 via a network 120. Network 120 may be a Local Area Network (LAN), e.g., Ethernet, Token Ring, ARCnet, or a Wide Area Network (WAN), e.g., Internet. It is noted that the Internet may refer to a network of computers. It is further noted that the connection between client 110 and server 130 may be any medium type, e.g., wireless, wired. It is further noted that client 110 may be any type of device, e.g., wireless, Personal Digital Assistant (PDA), cell phone, personal computer system, workstation, Internet appliance, configured with the capability of connecting to network 120 and consequently communicating with server 130. It is further noted that network system 100 may be any type of system that has at least one server and at least one client and that FIG. 1 is not to be limited in scope to any one particular embodiment."--- A wired connection is a "direct

connection communication," under the Broadest Reasonable Interpretation.)

Claim 7:

Dutta teaches ***The system of claim 1,***

- ***wherein said rendering areas within said content correlator code determines, via retrieval of information from said viewer's browser application, whether a predefined portion of a content page triggering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, and causes a said electronic content file designated in said stored data record to be retrieved from said server and rendered at said designated content rendering area of said electronic pages if said content page triggering areas is within said dimensions and scrolling position.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files soring specific information are content files.)

Claim 8:

Kofman teaches ***The system of claim 1,***

- ***wherein said system software application generates a new correlator code for each viewer request for an electronic content page wherein said tag is placed.*** (Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table

object, inserts a new row at the end, and inserts the title and body HTML." ----Body HTML is generated. Examiner notes that the terminology to "cause a correlator code to be generated" includes any code that is referenced when a particular page is called, under the Broadest Reasonable Interpretation. This is because to say "code is generated" is not only extremely broad, but also an abstract concept. For example, when high-level programming languages, such as those that might found in a web page source code, are converted for execution into assembly language and further into machine code, the machine code is being "generated." From this perspective, we can see that anytime a web page is processed by the machine, "code is generated." In another example, when source file data is being read from its stored configuration, it can also be said that "code is generated." One example of this can be when a stored JavaScript function or HTML in a source file is retrieved upon the source file request. The JavaScript interpreter of a browser can be said to be "generating code" and the rendering engine can be said to "generate code" when HTML is parsed and converted into DOM nodes. In other words, at so many stages in the information transfer during a web page request, "code is generated." The machine or assembly code further "correlates" to the programming language.)

Claim 9:

AAPA teaches ***The system of claim 1,***

- ***wherein said network comprises one or more networks selected from the group consisting of local area computer networks, wide area computer networks, the Internet, cable communications networks, satellite communications networks, television frequency networks, radio frequency communications networks, powerline communications networks and cellular communications networks.*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers.")

Claim 10:

Dutta teaches ***The system of claim 1,***

- ***wherein said content files is rendered if said correlator code determines that a designated content page triggering area or a designated content rendering area is partially within said content viewer's browser window dimensions and scrolling position.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files soring specific information are content files.)

Claim 11:

Dutta teaches ***The system of claim 1,***

- ***wherein said correlator code monitors more than one designated content rendering area within the same content page.*** (see [0009]—Dutta provides, "The problems outlined above may at least in part be solved in some embodiments by a server transmitting an application that may comprise a Java applet to a client where the application may be configured to track and detect the user of the client focusing on a portion, such as a particular area or particular word(s), in a document. The application may then determine if there are any components, e.g., terms, in the portion of the document focused on by the user that are in a list of components that have an advertisement and/or specific information associated with the components. If there are any components in the list focused on by the user, then the application may map each of the identified components, e.g., terms, to a particular file storing an advertisement and/or specific information. The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client."--- Any of the components in the list of multiple items are monitored for appearance within the focus of the user.)

Claim 21:

Dutta teaches ***The system of claim 1,***

- ***wherein said the correlator code causes a communication to be sent to a said server if a said electronic content file is rendered in a said content rendering area and said content rendering area is at least partially within the dimensions and scrolling position of the browser window displayed on the display device of said viewer's electronic communications device.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files soring specific information are content files. It is determined if any of the components are in the user focus.)

Claim 23:

AAPA teaches ***A method for controlling the rendering of content via an electronic communication network, comprising***

- ***the steps of: receiving via a user interface of a computer system having one or more computer processors and one or more software application,*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code, such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded

or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.")

Dutta teaches where AAPA does not expressly state:

- ***data designating: (i) one or more electronic content pages having one or more content page rendering areas within a said electronic content page, (ii) one or more of said content page rendering areas and (iii) one or more electronic content files, said electronic content files being previously stored at a server storing as a record within a database said data designating a said content page, said one or more content page rendering areas and said one or more content files;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files storing specific information are content files. Examiner notes that the given limitation is largely met by the fact that a document exists on the server. In order for a document to be stored on a server, there must exist a user interface for its input. The electronic document itself is an electronic content page with content rendering areas since it is eventually displayed to a user. The document's location is a "record" of the document.)
- ***generating at said computer system-end a tag/link for placement on said designated electronic content page;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an

advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information. Alternatively, the breadth of the term "tag" is so great that it includes any piece of code or metadata found on an electronic content page, under the Broadest Reasonable Interpretation. For example, a "tag" include a piece of CSS, JavaScript, HTML, etc. A "tag" can even include headers or doctype metadata. Thus, when a web document is created, such as those described in Dutta, many, many "tags" are created.)

- ***causing a software application at said computer system to execute in response to said tag/link being activated by a viewer request for said designated electronic content page, wherein said viewer makes said request via an electronic communications device communicating via said electronic communications network, said electronic communications device having display screen displaying a browser window for a perceiving electronic content pages within the area of said window defined by said window's dimensions and scrolling position;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information. Alternatively, the example "tags" given above, such as any code in the document given in Dutta, are "activated" when the document is requested because the page is parsed, analyzed, processed, etc.)

- ***retrieving, via said software application, data from said stored record;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ---- The application retrieves advertisements and/or specific information.)

- ***generating via a software application at said computer system-end a correlator code for embedding at said content page for determining whether a said designated content rendering area of said designated electronic content page is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device;*** ----Body HTML is generated. Examiner notes that the terminology to "cause a correlator code to be generated" includes any code that is referenced when a particular page is called, under the Broadest Reasonable Interpretation. This is because to say "code is generated" is not only extremely broad, but also an abstract concept. For example, when high-level programming languages, such as those that might found in a web page source code, are converted for execution into assembly language and further into machine code, the machine code is being "generated." From this perspective, we can see that anytime a web page is processed by the machine, "code is generated." In another example, when source file data is being read from its stored configuration, it can also be said that "code is generated." One example of this can be when a stored JavaScript function or HTML in a source file is retrieved upon the source file request. The JavaScript interpreter of a browser can be said to be "generating code" and the rendering engine can be said to "generate code" when HTML is parsed and converted into DOM nodes. In other words, at so many stages in the information transfer during a web page request, "code is generated." The machine or assembly code further "correlates" to the programming language.)

- ***monitoring, via said correlator code at said designated content page, whether said designated content page rendering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----The application tracks and detects user focus on document portions and therefore monitors the dimensions and scrolling position of the browser window.)

- ***causing said designated electronic content files to be rendered at said designated content page rendering area of said designated electronic content page if said correlator code determines that said designated content page rendering area is at least partially within said window dimensions and scrolling position.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information, which are displayed in response to the determined scrolling position.)

AAPA and Dutta are analogous art pertaining to web content retrieval. Further, AAPA and Dutta pertain to web content retrieval over a network.

Dutta teaches "method, system and computer program product for transferring advertisements and/or specific information over a network." Since Dutta calls for information transfer via a network, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA and Dutta simply for understanding technical features of network delivery already called for in Dutta, outlined in AAPA.

Dutta teaches where "application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking based on the movement of a mouse 326 (FIG. 3)." However, Kofman more clearly teaches:

- ***retrieving data pertaining to said viewer browser from said viewer's electronic content page***

request; (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect.)

AAPA, Dutta, and Kofman are analogous art pertaining to web content retrieval. Further, AAPA, Dutta, and Kofman pertain to web content retrieval over a network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta, with those of Kofman for the purposes of convenience in implementing

pages with much content (see page 1, Kofman). Further, AAPA, in view of Dutta, seeks to deliver content to the user based on the user's focus. Kofman teaches exactly one such method of content delivery based on user focus. Further, Kofman provides a coding tutorial, demonstrating that its implementation is versatile and can be readily applied to contexts such as those described in AAPA, in view of Dutta, with a predictable outcome.

Claim 24:

Dutta teaches ***The method of claim 23,***

- ***further comprising the step of monitoring, via said correlator code at said designated content page, whether a predefined portion of a designated content page triggering area which is different from said content page rendering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, and causing said content file to be rendered at said content page rendering area if said content page triggering area is determined to be within the dimensions and scrolling position of the browser window displayed on said display screen.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Components are not the advertisements, nor the area in which the advertisement is rendered.)

Claim 25:

AAPA teaches ***The method of claim 23***

- ***wherein said electronic communications network comprises one or more networks selected from the group consisting of local area computer networks, wide area computer networks, the Internet, cable communications networks, satellite communications networks, television frequency networks, radio frequency networks, powerline communications networks and cellular communications networks.***

(see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers.")

Claim 26:

Dutta teaches ***The method of claim 23,***

- ***further comprising the step of causing a communication to be sent via said electronic communications network if a said electronic content file is rendered in a said content rendering area and said content rendering area is at least partially within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files soring specific information are content files.)

Claim 37:

Dutta teaches ***The method of claim 23,***

- ***wherein said correlator code monitors more than one content rendering area on a said content page.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Multiple components are monitored.)

Claim 38:

AAPA teaches ***A system for the control of content rendering on a designated rendering area of a designated content display page via an electronic communications network, comprising***

- ***computer system communicating with said electronic communications network and said designated content display page, said computer system running one or more software applications*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code, such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.") ***for generating a code for detection that a designated portion of said designated rendering area is within the dimensions and scrolling position of a browser window on a display screen of an electronic communications device of a viewer communicating via said network with said designated content display page*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code,

such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.")

Dutta teaches where AAPA does not expressly state:

- ***and a code written to said designated content display pare for detection that said designated portion of said designated rendering area is within the dimensions and scrolling position of said browser window prior to the rendering of designated content within said designated rendering area, said code also causing said designated content to be rendered within said designated rendering area only if said designated portion of said rendering area is determined by said correlator code to be within said dimensions and scrolling position of said browser window,*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information.)

AAPA and Dutta are analogous art pertaining to web content retrieval. Further, AAPA and Dutta pertain to web content retrieval over a network.

Dutta teaches "method, system and computer program product for transferring advertisements

and/or specific information over a network." Since Dutta calls for information transfer via a network, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA and Dutta simply for understanding technical features of network delivery already called for in Dutta, outlined in AAPA.

Dutta teaches where "application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking based on the movement of a mouse 326 (FIG. 3)." Kofman more clearly teaches:

- ***said code also monitoring whether said content is rendered within said designated rendering are and causing data pertaining to said monitoring to be sent via said network.*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML.

The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect.)

AAPA, Dutta, and Kofman are analogous art pertaining to web content retrieval. Further, AAPA, Dutta, and Kofman pertain to web content retrieval over a network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta, with those of Kofman for the purposes of convenience in implementing pages with much content (see page 1, Kofman). Further, AAPA, in view of Dutta, seeks to deliver content to the user based on the user's focus. Kofman teaches exactly one such method of content delivery based on user focus. Further, Kofman provides a coding tutorial, demonstrating that its implementation is versatile and can be readily applied to contexts such as those described in AAPA, in view of Dutta, with a predictable outcome.

Claim 39:

Kofman teaches ***The system of claim 38,***

- ***further comprising a tracking server communicating with said content page for receiving said rendering data.*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function

detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect. A server is in communication with the tracking effect and therefore constitutes a "tracking server.")

Claim 40:

Dutta teaches ***The system of claim 39,***

- ***wherein said system causes a view to be counted if said content file is rendered in said content rendering area and said content rendering area is at least partially within the area defined by the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a

particular file storing an advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information.)

Claim 41:

AAPA teaches ***A system for controlling the rendering of content via an electronic communications network, comprising***

- ***a system-end computer comprising one or more computer processing units and one or more software applications, and communicating with one or more electronic content pages having two or more content rendering areas within a said electronic content page,*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code, such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.") ***said electronic content pages being remotely accessible via said electronic communications network by a viewer using an electronic communications device having a display screen displaying a browser window with an area defined by said window's dimensions and scrolling position for perceiving said electronic content pages;*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's

use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code, such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.")

Dutta teaches where AAPA does not expressly state:

- ***a correlator code for embedding at a designated electronic content page, ... checking browser scrolling position, and causing content to be requested for rendering within said designated content rendering area if said correlator code detects that a predefined portion of said content rendering area is within the dimensions and scrolling position of the viewer's browser window shown in viewer's display screen, said correlator code also reporting the rendering of said designated content via said network if said content is so rendered within said designated content rendering area.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion... then determine if there are components... in the portion of the document...that have advertisements and/or specific information associated with the components... the application may map each of the identified components... to a particular file storing an advertisement and/or specific information." ---- Since the application tracks and detects user focus on document portions, portions must be identified, "or

"tagged," in order to retrieve advertisements and/or specific information.)

AAPA and Dutta are analogous art pertaining to web content retrieval. Further, AAPA and Dutta pertain to web content retrieval over a network.

Dutta teaches "method, system and computer program product for transferring advertisements and/or specific information over a network." Since Dutta calls for information transfer via a network, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA and Dutta simply for understanding technical features of network delivery already called for in Dutta, outlined in AAPA.

Dutta teaches where "application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking based on the movement of a mouse 326 (FIG. 3)." Kofman more clearly teaches:

- ***said correlator code at said designated electronic content page retrieving information from said viewer's browser, checking viewer browser screen coordinate data, checking content page rendering area coordinates, checking browser window dimensions,*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page

loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect.)

AAPA, Dutta, and Kofman are analogous art pertaining to web content retrieval. Further, AAPA, Dutta, and Kofman pertain to web content retrieval over a network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta, with those of Kofman for the purposes of convenience in implementing pages with much content (see page 1, Kofman). Further, AAPA, in view of Dutta, seeks to deliver content to the user based on the user's focus. Kofman teaches exactly one such method of content delivery based on user focus. Further, Kofman provides a coding tutorial, demonstrating that its implementation is versatile and can be readily applied to contexts such as those described in AAPA, in view of Dutta, with a predictable outcome.

Claim 42:

Dutta teaches ***said software claim 41,***

- ***wherein said correlator code determines if said predefined portion of a designated content***

page triggering area is within, or within said pre-defined distance outside of the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, and if so, causes said content to be requested and rendered at said content rendering area. (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information.)

Claim 43:

Dutta teaches ***The system of claim 41,***

- ***wherein said content page rendering areas within said content pages and said content page triggering areas are different areas.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Components are not the advertisements, nor the area in which the advertisement is rendered.)

Claim 44:

Kofman teaches ***The system of claim 41,***

- ***wherein said correlator code retrieves content rendering activity data from said viewer's browser and said content page, and causes said data to be sent via said electronic communications network.*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but

JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect.)

Claim 45:

Kofman teaches ***The system of claim 41,***

- ***further comprising a tracking server for communicating with said content page for storage of content rendering activity data retrieved from said viewer's browser and said content page.*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface

with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect. A server is in communication with the tracking effect and therefore constitutes a "tracking server.")

Claim 46:

Dutta teaches ***The system of claim 44,***

- ***wherein said content rendering activity data is sent to said to said server via file server direct connection communication.*** (see [0024]--Dutta provides, "FIG. 1 illustrates an embodiment of the present

invention of a network system 100. Network system 100 may comprise a client 110 connected to a server 130 via a network 120. Network 120 may be a Local Area Network (LAN), e.g., Ethernet, Token Ring, ARCnet, or a Wide Area Network (WAN), e.g., Internet. It is noted that the Internet may refer to a network of computers. It is further noted that the connection between client 110 and server 130 may be any medium type, e.g., wireless, wired. It is further noted that client 110 may be any type of device, e.g., wireless, Personal Digital Assistant (PDA), cell phone, personal computer system, workstation, Internet appliance, configured with the capability of connecting to network 120 and consequently communicating with server 130. It is further noted that network system 100 may be any type of system that has at least one server and at least one client and that FIG. 1 is not to be limited in scope to any one particular embodiment."--- A wired connection is a "direct connection communication," under the Broadest Reasonable Interpretation.)

Claim 47:

Kofman teaches ***The system of claim 42,***

- ***wherein a new correlator code is generated for each viewer request for said content page.***

(Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Body HTML is generated. Examiner notes that the terminology to "cause a correlator code to be generated" includes any code that is referenced when a particular page is called, under the Broadest Reasonable Interpretation. This is because to say "code is generated" is not only extremely broad, but also an abstract concept. For example, when high-level programming languages, such as those that might found in a web page source code, are converted for execution into assembly language and further into machine code, the machine code is being "generated." From this perspective, we can see that anytime a web page is processed by the machine, "code is generated." In another example, when source file data is being read from its stored

configuration, it can also be said that "code is generated." One example of this can be when a stored JavaScript function or HTML in a source file is retrieved upon the source file request. The JavaScript interpreter of a browser can be said to be "generating code" and the rendering engine can be said to "generate code" when HTML is parsed and converted into DOM nodes. In other words, at so many stages in the information transfer during a web page request, "code is generated." The machine or assembly code further "correlates" to the programming language.)

Claim 48:

Dutta teaches ***The system of claim 41,***

- ***wherein said correlator code monitors more than one content rendering area within said content page.*** (see [0009]—Dutta provides, "The problems outlined above may at least in part be solved in some embodiments by a server transmitting an application that may comprise a Java applet to a client where the application may be configured to track and detect the user of the client focusing on a portion, such as a particular area or particular word(s), in a document. The application may then determine if there are any components, e.g., terms, in the portion of the document focused on by the user that are in a list of components that have an advertisement and/or specific information associated with the components. If there are any components in the list focused on by the user, then the application may map each of the identified components, e.g., terms, to a particular file storing an advertisement and/or specific information. The application may transmit a request to the server to transmit those particular file(s) identified to the user of the client. The server may be configured to transmit those particular file(s) storing selected contextual information such as advertisement(s) or other specific information to the client."--- Any of the components in the list of multiple items are monitored for appearance within the focus of the user.)

Claim 49:

AAPA teaches ***The system of claim 41,***

- ***wherein said network comprises one or more networks selected from the group consisting of***

local area computer networks, wide area computer networks, the Internet, cable communications networks, satellite communications networks, television frequency networks, radio frequency communications networks, powerline communications networks and cellular communications networks. (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers.")

Claim 60:

Kofman teaches ***The said of system of claim 1,***

- ***wherein said correlator code determines whether a designated content file has been previously rendered in a designated rendering area before rendering said content file.*** (Kofman provides, "The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height."---By determining whether the scroll distance is greater than the content viewport height, the algorithm determines whether the content file has been rendered. If the scroll distance is greater than the viewport height, it is evident that the content file has not been rendered.)

Claim 61:

Kofman teaches ***The method of claim 23,***

- ***further comprising the step of determining, via said correlator code, whether a designated content file has been previously rendered in a designated rendering area before rendering said content file.*** (Kofman provides, "The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height."---By determining whether the scroll distance is greater than the content viewport height, the algorithm determines whether the content file has been rendered. If the scroll distance is greater than the viewport height, it is evident that the content file has not been rendered.)

Claim 62:

Kofman teaches ***The system of claim 38,***

- ***wherein said correlator code determines whether a designated content file has been previously rendered in a designated rendering area before rendering said content file.*** (Kofman provides, "The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height."---By determining whether the scroll distance is greater than the content viewport height, the algorithm determines whether the content file has been rendered. If the scroll distance is greater than the viewport height, it is evident that the content file has not been rendered.)

Claim 63:

Kofman teaches ***The system of claim 41,***

- ***wherein said correlator code determines whether a designated content file has been previously rendered in a designated rendering area before rendering said content file.*** (Kofman provides, "The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height."---By determining whether the scroll distance is greater than the content viewport height, the algorithm determines whether the content file has been rendered. If the scroll distance is greater than the viewport height, it is evident that the content file has not been rendered.)

Claims 12-20, 22, 27-36, 50-59, 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, in view of Dutta et al.,U.S. Pub. US 2004/0205651 A1 (hereinafter, "Dutta"), in view of Kofman, "Implementing Dynamic Scroll with Ajax, JavaScript, and XML," June 6, 2007, (hereinafter, "Kofman"), and in further view of Perlmutter, U.S. Pub. No. US 2005/0108095 A1, (hereinafter, "Perlmutter").

Claim 12:

Perlmutter teaches ***The system of claim 1,***

- ***further comprising one or more software applications for providing reports pertaining to content rendering activity data with respect to a said content rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 13:

Perlmutter teaches ***The system of claim 12,***

- ***wherein said reports pertaining to content rendering activity further comprise reports***

comparing content rendering activity at two or more content rendering areas. (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. Additionally, other "content rendering areas" are monitored such as user interaction locations, etc.)

Claim 14:

Perlmutter teaches ***The system of claim 1,***

- ***wherein said system causes a content rendered event to be counted if said electronic content file is rendered at a said content rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing

electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 15:

Perlmutter teaches ***The system of claim 12,***

- ***wherein said reports comprise data pertaining to how long a said electronic content file was rendered to a viewer at a said content rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted."—Whether the advertisement is played to completion "pertains to" how long the was rendered to the viewer.)

Claim 16:

Perlmutter teaches ***The system of claim 12,***

- ***wherein said reports comprise data pertaining to the number of said viewers to whom a said electronic content file was rendered at a said content rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking

information, such as the geographical location of the terminal, may be collected and transmitted."—Locations of terminals "pertains to" the number of viewers.)

Claim 17:

Perlmutter teaches ***The system of claim 12,***

- ***wherein said reports comprise data pertaining to the geographic location of a said viewer to whom a said electronic content file was rendered at a said content rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted.")

Claim 18:

Perlmutter teaches ***The system of claim 12,***

- ***wherein said reports comprise data pertaining to browser version used by a said viewer to whom a said electronic content file was rendered at a said content rendering area.*** (see [0038]-- Perlmutter provides, "With reference to FIG. 6, in an embodiment of the present invention, when the web browser of a viewer's computer first accesses a website with the necessary advertisement software **600**, a cookie is installed **610** on the viewer's computer. The cookie may be installed by the Advertisement Server, or it may be installed by the Website Server which hosts the webpage. When the advertisements play **620**, the cookie may keep track of which advertisements have been played and store **630** a link to the advertisements. In an embodiment of the present invention, the advertisements are stored on the advertisement server, such that the link is to a location on the advertisement server. Additionally, using the viewer's computer's clock, the cookie may monitor **640** whether the advertisement played until near completion (around 75%) and how much time has elapsed since an advertisement was last displayed."--- A cookie installed when a browser

accesses the website "pertains to" the browser version.)

Claim 19:

Perlmutter teaches ***The system of claim 12,***

- ***wherein said reports comprise data pertaining to how many times said content file was rendered to a said viewer at a said content rendering area.*** (see [0038]--Perlmutter provides, "With reference to FIG. 6, in an embodiment of the present invention, when the web browser of a viewer's computer first accesses a website with the necessary advertisement software **600**, a cookie is installed **610** on the viewer's computer. The cookie may be installed by the Advertisement Server, or it may be installed by the Website Server which hosts the webpage. When the advertisements play **620**, the cookie may keep track of which advertisements have been played and store **630** a link to the advertisements. In an embodiment of the present invention, the advertisements are stored on the advertisement server, such that the link is to a location on the advertisement server. Additionally, using the viewer's computer's clock, the cookie may monitor **640** whether the advertisement played until near completion (around 75%) and how much time has elapsed since an advertisement was last displayed."--- Since the cookie is installed at "first" access, it "pertains to" how many times the file was accessed and rendered.)

Claim 20:

Perlmutter teaches ***The system of claim 12,***

- ***wherein said reports comprise data pertaining to viewer click activity with respect to said electronic content rendered to a said viewer at a said content rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted.")

Claim 22:

Perlmutter teaches ***The system of claim 1,***

- ***wherein said system counts a view if said electronic content file is rendered in said content rendering area and said content rendering area is at least partially within the dimensions and scrolling position of the browser window displayed on the display device of said viewer's electronic communications device.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since

Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 27:

Perlmutter teaches ***The method of claim 23,***

- ***further comprising the step of providing reports pertaining to content rendering activity data with respect to said content rendering area of said electronic content page.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 28:

Perlmutter teaches ***The method of claim 27,***

- ***wherein said step of providing reports further comprises comparing content rendering activity at two or more content rendering areas.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. Additionally, other "content rendering areas" are monitored such as user interaction locations, etc.)

Claim 29:

Perlmutter teaches ***The method of claim 23,***

- ***further comprising the step of causing the rendering of a said electronic content file at a said content page rendering area to be counted if said electronic content file is rendered at said content page rendering area after said content rendering area is determined to be at least partially within the dimensions and scrolling position of said browser window.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 30:

Perlmutter teaches ***The method of claim 27,***

- ***wherein said step of providing reports further comprises providing data pertaining to how long a said electronic content file was rendered to a said viewer at a said content page rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted."—Whether the advertisement is played to completion "pertains to" how long the was rendered to the viewer.)

Claim 31:

Perlmutter teaches ***The method of claim 27,***

- ***wherein said step of providing reports further comprises providing data pertaining to the number of said viewers to whom a said electronic content file was rendered at a said content page rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted."—Locations of terminals "pertains to" the number of viewers.)

Claim 32:

Perlmutter teaches ***The method of claim 27,***

- ***wherein said step of providing reports further comprises providing data pertaining to the geographic location of a said viewer to whom a said electronic content file was rendered at a said content page rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted.")

Claim 33:

Perlmutter teaches ***The method of claim 27,***

- ***wherein said step of providing reports further comprises providing data pertaining to the browser version used by a said viewer to whom a said electronic content file was rendered at a said content page rendering area.*** (see [0038]--Perlmutter provides, "With reference to FIG. 6, in an embodiment of the present invention, when the web browser of a viewer's computer first accesses a website with the necessary advertisement software **600**, a cookie is installed **610** on the viewer's computer. The cookie may be installed by the Advertisement Server, or it may be installed by the Website Server which hosts the

webpage. When the advertisements play **620**, the cookie may keep track of which advertisements have been played and store **630** a link to the advertisements. In an embodiment of the present invention, the advertisements are stored on the advertisement server, such that the link is to a location on the advertisement server. Additionally, using the viewer's computer's clock, the cookie may monitor **640** whether the advertisement played until near completion (around 75%) and how much time has elapsed since an advertisement was last displayed."--- A cookie installed when a browser accesses the website "pertains to" the browser version.)

Claim 34:

Perlmutter teaches ***The method of claim 27,***

- ***wherein said step of providing reports further comprises providing data pertaining to how many times a said electronic content file was rendered at a said content page rendering area.*** (see [0038]--Perlmutter provides, "With reference to FIG. 6, in an embodiment of the present invention, when the web browser of a viewer's computer first accesses a website with the necessary advertisement software **600**, a cookie is installed **610** on the viewer's computer. The cookie may be installed by the Advertisement Server, or it may be installed by the Website Server which hosts the webpage. When the advertisements play **620**, the cookie may keep track of which advertisements have been played and store **630** a link to the advertisements. In an embodiment of the present invention, the advertisements are stored on the advertisement server, such that the link is to a location on the advertisement server. Additionally, using the viewer's computer's clock, the cookie may monitor **640** whether the advertisement played until near completion (around 75%) and how much time has elapsed since an advertisement was last displayed."--- Since the cookie is installed at "first" access, it "pertains to" how many times the file was accessed and rendered.)

Claim 35:

Perlmutter teaches ***The method of claim 27,***

- ***wherein said of step of providing reports further comprises providing data pertaining to viewer***

click through activity with respect to a said electronic content file rendered to a said viewer at a said content page rendering area. (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted.")

Claim 36:

Perlmutter teaches ***The method of claim 23,***

- ***further comprising the step of counting a view if a said electronic content file is rendered in a said content rendering area and a predefined portion of said content rendering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing

electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 50:

Perlmutter teaches ***The system of claim 41,***

- ***further comprising one or more software applications for providing reports pertaining to content rendering activity data with respect to said content page rendering areas of said content pages.***

(see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements.

Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 51:

Perlmutter teaches ***The system of claim 50,***

- ***wherein said reports pertaining to content rendering activity further comprise reports comparing content rendering activity at two or more content rendering areas.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. Additionally, other "content rendering areas" are monitored such as user interaction locations, etc.)

Claim 52:

Perlmutter teaches ***The system of claim 41,***

- ***wherein said system causes a content rendered event to be counted if said electronic content file is rendered at said content rendering area.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or

"reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 53:

Perlmutter teaches ***The system of claim 44,***

- ***wherein said content rendering activity data retrieved via said correlator code comprises one or more of the following data: whether said content was rendered and said content rendering area was within said dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, how long said content was rendered to said viewer at said content page rendering area, the number of said viewers to whom said content was rendered at said content page rendering area, the geographic location of said viewers to whom said content was rendered at said content page area, browser versions used by said viewers to whom said content was***

rendered at said content page area, how many times said content was rendered to said viewers at said content page rendering area, and viewer click activity with respect to said content rendered to said viewers at said content page rendering area. (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted.")

Claim 54:

AAPA teaches ***A method for controlling the rendering of content via an electronic communications network, comprising***

- ***requesting said content page via said electronic communications network*** (see Background—AAPA provides, "Internet web page content delivery typically involves a content viewer's use of a browser application that is installed in the viewer's computer which connects to the Internet, and through hypertext transfer protocol or "http" requests web pages from content servers. These web pages are generally written in Hyper Text Markup Language or "HTML." When a content page is requested, the viewer's browser will download and assemble the web page according to the HTML instructions for the page, including commands from other languages that may be set in the HTML code, such as JavaScript or Ajax, and any images or rich media content that may be requested and loaded from the same server or other content servers. JavaScript is a scripting language that relies on a run-time environment, such as a browser application and can be used to write functions that are embedded or included in HTML pages and interact with the document object model of the page and can detect user keystrokes and other user actions. AJAX (an acronym for "Asynchronous JavaScript and XML") is a web development technology that is used to implement web applications that communicate with a server in the background without interfering with the current state of the page.")

Dutta teaches:

- ***...for determining whether a predefined portion of one or more user designated content page areas within said content page is either at least partially within, or a pre-defined distance outside of, the dimensions and scrolling position of a browser window displayed on a display screen of an electronic communications device of a viewer*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files storing specific information are content files. Examiner notes that the given limitation is largely met by the fact that a document exists on the server. In order for a document to be stored on a server, there must exist a user interface for its input. The electronic document itself is an electronic content page with content rendering areas since it is eventually displayed to a user. The document's location is a "record" of the document.)
- ***....the steps of: generating a correlator code for embedding at a user designated content page accessible via said electronic communications network ...causing, via said correlator code, one or more designated electronic content files to be requested via said electronic communications network and rendered at a said designated content page area of said designated electronic content page if said correlator code determines that said predefined portion of said designated content page area is within said dimensions and scrolling position;*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Since the application tracks and detects user focus on document portions, portions must be identified, "or "tagged," in order to retrieve advertisements and/or specific information.)

AAPA and Dutta are analogous art pertaining to web content retrieval. Further, AAPA and Dutta pertain to web content retrieval over a network.

Dutta teaches "method, system and computer program product for transferring advertisements and/or specific information over a network." Since Dutta calls for information transfer via a network, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA and Dutta simply for understanding technical features of network delivery already called for in Dutta, outlined in AAPA.

Dutta teaches where "application 132 may be configured to track the focus of the user of client 110 in the document, e.g., web page, picture, displayed in step 503. In one embodiment, application 132 may embody code to perform tracking based on the movement of a mouse 326 (FIG. 3)." Kofman more clearly teaches:

- ***retrieving data from said viewer browser;... monitoring, via said correlator code embedded at said designated content page prior to rendering of one or more designated content files within said one or more designated content page areas, whether a predefined portion of said one or more designated content page areas is either at least partially within, or within a pre-defined distance outside of, said the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device;*** (Kofman provides, "These CSS properties only define the appearance of the div and table, but JavaScript APIs interface with the scroll properties. To understand the implementation of a dynamic table, you need to know properties that measure HTML elements' dimension and location on the page. These properties can be programmatically accessed and changed in JavaScript and, thankfully, APIs are the same across most major browsers." Kofman further provides, "The first part of the logic to auto-append more rows involves the detection of where the user has already scrolled. To do this, I created a JavaScript function detectScroll() that is polled at half-second intervals. The overhead of polling is minimal, but as an

alternative, I could have created a handler function for the scroll event and attached it to the div. The startPolling function is called once at the time the entire page loads, and it starts to call detectScroll periodically. The algorithm, which detects scroll position, checks to see whether the distance already scrolled is greater than or equal to the content height.viewport height. I also add 20 pixels to the distance to account for the scroll bar size and to make sure the position of the scroll bar is a little prior to very end, before the new row fetch occurs," and, "If the condition is met when detectScoll executes, a new JavaSript function fectchAction is called. I also update the "status" div with the total row count." Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Thus, Kofman illustrates updating and insertion of code which allows for dynamic retrieval and display of content based on a user's focus and scroll position, allowing for an "infinite scroll" effect.)

AAPA, Dutta, and Kofman are analogous art pertaining to web content retrieval. Further, AAPA, Dutta, and Kofman pertain to web content retrieval over a network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta, with those of Kofman for the purposes of convenience in implementing pages with much content (see page 1, Kofman). Further, AAPA, in view of Dutta, seeks to deliver content to the user based on the user's focus. Kofman teaches exactly one such method of content delivery based on user focus. Further, Kofman provides a coding tutorial, demonstrating that its implementation is versatile and can be readily applied to contexts such as those described in AAPA, in view of Dutta, with a predictable outcome.

Perlmutter teaches:

- ***and causing a view to be counted with respect to said one or more electronic content files if said one or more electronic content files are rendered in a said content page area and a predefined portion of said content page area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

AAPA, in view of Dutta and Kofman, and Perlmutter are analogous art because they are both concerned with the field of data fetching/ processing. Further, they are analogous art concerning advertisement delivery.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of AAPA, in view of Dutta and Kofman, with those of Perlmutter for the purposes of playing electronic advertisements in conjunction with other content and monitoring advertisement information (see Abstract, Perlmutter). AAPA, in view of Dutta and Kofman, already calls for the delivery of advertisements. Perlmutter describes the advantages of "tracking" data connected to precisely the kinds advertisement delivered in AAPA, in view of Dutta and Kofman. Thus, one of ordinary skill in the art would have readily been prompted to combine the teachings of Perlmutter with AAPA, in view of Dutta and Kofman. Further, since Perlmutter already describes the outcome of its use in an advertisement environment such as given in AAPA, in view of Dutta and Kofman, the outcome of the combination would have been readily predictable.

Claim 55:

Dutta teaches ***The method of claim 54,***

- ***further comprising the step of designating a content page triggering area which is different from said content page area wherein said one or more designated electronic content files are to be rendered, which if a predefined portion thereof is determined by said correlator code to be within, or within said pre-defined distance outside of said dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, triggers rendering of said one or more electronic content files at said designated content page area.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information." ----Components are not the advertisements, nor the area in which the advertisement is rendered.)

Claim 56:

Perlmutter teaches ***The method of claim 54,***

- ***further comprising the step of reporting said view via a communication from said correlator code via said electronic communications network.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

Claim 57:

Perlmutter teaches ***The method of claim 54,***

- ***further comprising the step of causing the rendering of a said content file at a said content page rendering area to be counted if said content file is rendered at said content page rendering areas.*** (see [0027], Fig. 3 → Perlmutter teaches where "tracking information may include the start and end time of play of the advertisement, whether the advertisement was successfully played to completion, information related to user interaction with the user terminal during the playing of the advertisement, and the like. Some elements of play tracking information, such as the geographical location of the terminal, may be collected and transmitted." ---Tracking information, or "reports," are provided that "pertain to" content rendering activity such as when an advertisement is played. The advertisement rendering event is counted as successfully completed when the advertisement is played to completion, or "rendered" completely.)

Claim 58:

Kofman teaches ***The method of claim 54,***

- ***wherein a new correlator code is generated and written to said electronic content page for each viewer request for an electronic content page wherein said tag is placed.*** (Kofman provides, "The callback function readFeed is called when the server responds with the XML. The first thing this function does is obtain a handle on the XML structure, xmlHttp.responseXML.documentElement. It then gets all elements' names "item" and loops through them, pulling out title and body. The title and body are then passed to the helper function addRow that does the dirty work of appending the data to the table. addRow gets the table object, inserts a new row at the end, and inserts the title and body HTML." ----Body HTML is generated. Examiner notes that the terminology to "cause a correlator code to be generated" includes any code that is referenced when a particular page is called, under the Broadest Reasonable Interpretation. This is because to say "code is generated" is not only extremely broad, but also an abstract concept. For example, when high-level programming languages, such as those that might found in a web page source code, are converted for execution into assembly language and further into machine code, the machine code is being "generated."

From this perspective, we can see that anytime a web page is processed by the machine, "code is generated." In another example, when source file data is being read from its stored configuration, it can also be said that "code is generated." One example of this can be when a stored JavaScript function or HTML in a source file is retrieved upon the source file request. The JavaScript interpreter of a browser can be said to be "generating code" and the rendering engine can be said to "generate code" when HTML is parsed and converted into DOM nodes. In other words, at so many stages in the information transfer during a web page request, "code is generated." The machine or assembly code further "correlates" to the programming language.)

Claim 59:

Dutta teaches ***The method of claim 54,***

- ***further comprising the step of causing a communication to be sent via said electronic communications network if a said content file is rendered in a said content page area and a predefined portion of said content page area is at least partially within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device.*** (see [0009]-[0010], Figs. 5A & 5B → Dutta teaches where an "application may be configured to track and detect the user of the client focusing on a portion… then determine if there are components… in the portion of the document…that have advertisements and/or specific information associated with the components… the application may map each of the identified components… to a particular file storing an advertisement and/or specific information."---- The document is a content page where portions of the document are content rendering areas. Files soring specific information are content files.)

Claim 64:

Kofman teaches ***The method of claim 54,***

- ***further comprising the step of determining, via said correlator code, whether a designated content file has been previously rendered in a designated rendering area before rendering said content file.*** (Kofman provides, "The algorithm, which detects scroll position, checks to see whether the distance

already scrolled is greater than or equal to the content height.viewport height."---By determining whether the scroll distance is greater than the content viewport height, the algorithm determines whether the content file has been rendered. If the scroll distance is greater than the viewport height, it is evident that the content file has not been rendered.)

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. Any arguments concerning claims rejected under new grounds are rendered moot. Pertinent arguments are addressed within the claim analysis provided along with each limitation.

Conclusion

Examiner notes that any reference to specific figures, columns and lines should not be considered limiting in any way, and that each entire reference is considered to provide disclosure relating to the claimed invention. Therefore, each piece of cited relevant art must be considered in entirety.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. "Endless Pageless: Keep scrolling for more content," November 9, 2006

Available at:

http://ajaxian.com/archives/endless-pageless-keep-scrolling-for-more-content

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN JOSEPH whose telephone number is (571) 270-7591. The examiner can normally be reached on Monday-Friday, 9:00 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kavita Padmanabhan can be reached on (571) 272-8352. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shawn S. Joseph/
Examiner, Art Unit 2176

/Kavita Padmanabhan/
Supervisory Patent Examiner, Art Unit 2176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Brad Krassner et al.
U.S. Serial No.:	12/316,781
Filed:	December 16, 2008
Art Unit:	2176
Examiner:	Shawn S. Joseph
Confirmation No.:	2529
Title:	CONTENT RENDERING CONTROL SYSTEM AND METHOD

Dear Sir:

Response to Notice of Non-Compliant Amendment

In response to the Notice of Non-Compliant Amendment under 37 C.F.R. § 1.121 dated June 5, 2014 (the "Notice"), Applicants provide the following amended claims that provide the proper markup requested by the Notice. Please amend the Application as follows.

Conclusion

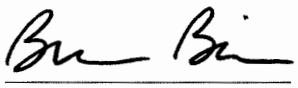
This Application has been carefully reviewed in light of the Notice of Non-Compliant Amendment dated June 5, 2014.

If the Examiner feels that a telephone conference would advance prosecution of this application in any manner, the Examiner is invited to contact Bradley J. Birchfield, Attorney for Applicant, at the Examiner's convenience at (214) 953-6570.

Applicant believes no fees to be currently due, however, the Commissioner is hereby authorized to charge any necessary additional fees and credit any overpayments to **Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.**

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Bradley J. Birchfield
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Date: August 5, 2014

Correspondence Address:
Customer Number: **05073**

16293235

Duration Media Ex-1085

AMENDMENTS TO THE CLAIMS:

The following listing will replace all prior versions of the claims in the application:

What is claimed is:

1. (Currently Amended) A system for controlling and monitoring the rendering of content files via an electronic communications network ~~at a designated content page rendering area to one or more viewers having a network communications device with a browser software application with adjustable window dimensions and scrolling position, and for perceiving content page areas within said browser's window dimensions and scrolling position~~, comprising:

~~a system-end computer equipped and configured for communications~~ a system-end computer comprising one or more computer processors and one or more software applications, said system-end computer communicating with one or more servers, databases and electronic content pages, said electronic content pages having one or more content rendering areas within a said electronic content page, said electronic content pages being remotely accessible via said electronic communications network~~, including one or more computer processing units and means for, communicating with one or more content pages that have one or more of said content rendering areas and one or more content page triggering areas on said pages, and a system server including a database that stores one or more records containing data pertaining to said content pages, said content page triggering areas, said content page rendering areas and said content files,~~

~~one or more content file servers which house content files,~~

by a viewer using an electronic communications device having a display screen displaying a browser window with an area defined by said window's dimensions and scrolling position for perceiving said electronic content pages;

~~one or more network communications~~ a system user interface ~~software applications~~ for receiving ~~from system users data designating a content pages, a content page rendering areas within said content pages, a content page triggering areas that, when determined to be~~

~~within a content page viewer's browser window dimensions and scrolling position, will result in content being rendered in said content page rendering area, and a content files for rendering at said designated content rendering areas of said content pages;~~ data designating: (i) one or more of said electronic content pages; (ii) one or more of said content rendering areas within a said electronic content pages, and (iii) one or more electronic content files stored at said server, and for creating a record~~,~~ containing said data for storage in a said ~~system server database, that contains said data, assigning an identification code to said data record and generating a tag/link to be placed~~ database;

a tag for placement on a said designated electronic content page, said tag~~/link including~~ having a reference to a said stored data record ~~identification code and a link to a system custom software application; and~~ and a link to a said system software application, said tag causing a communication to be sent from said electronic content page wherein said tag is placed to said system software application in response to a request by a viewer for the electronic content page wherein said tag is placed;

~~one or more~~ said system ~~custom software applications for generating and~~ software application executing in response to receiving said communication from said tag to retrieve said data from said stored data record referenced in said tag, and cause a correlator code to be generated for writing to said designated ~~content page a correlator code to determine when said designated content page triggering area is within a content viewer's browser window dimensions and scrolling position, for dynamically generating HTML code to be used as a marker for said designated content page rendering area, and for communicating with said correlator code to cause said content files to be rendered in said content page rendering areas when said correlator code detects that said designated content page triggering area is within said content viewer's browser window~~ electronic content page;

a correlator code that is written to said designated electronic content page, which determines, via retrieval of information from said viewer's browser, whether a predefined portion of said content rendering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, and causes said one or more electronic content files designated in said stored data record to be rendered at said designated content rendering area if said predefined portion of said content rendering area is determined to be within said dimensions and scrolling position.

2. (Currently Amended) The system of claim 1, wherein said ~~system~~ software applications further ~~include~~comprise a content rendering module software application that is embedded at a said ~~specified~~ designated content ~~page~~ rendering area ~~when~~ and wherein if said correlator code determines that a predefined portion of said ~~specified~~designated content page ~~triggering~~rendering area is within the dimensions and scrolling position of ~~said viewer's~~the browser window ~~and~~displayed on the display screen of the viewer's electronic communications device, said content rendering module communicates with a~~said~~ content servers to retrieve and render a said designated electronic content ~~files~~file at said ~~specified~~ content ~~page~~ rendering area.

3. (Currently Amended) The system of claim 1, wherein said correlator code retrieves content rendering activity data from said viewer's browser~~, and further comprising a tracking server for communicating with said correlator code at~~ for sending from said content page~~ and said system server for storage of content rendering activity data~~ via said electronic communications network.

4. (Currently Amended) The system of claim 2, wherein said content rendering module receives content rendering activity data from said correlator code~~ and further comprising a tracking server for communicating with said content rendering module at said content page and said system server for storage of said content rendering activity data~~via retrieval of said data by said correlator code from said viewer's browser for sending from said content page via said electronic communications network.

5. (Currently Amended) The system of claim ~~2~~3, wherein said content rendering activity data is sent ~~from said content rendering module~~ to said ~~system~~ server via file server direct connection communication.

6. (Currently Amended) The system of claim 4, wherein said content rendering activity data is sent ~~from said content rendering module~~ to said ~~tracking~~ server via file server direct connection communication.

7. (Currently Amended) The system of claim 1, wherein said ~~content page rendering areas within said content~~ correlator code determines, via retrieval of information from said viewer's browser application, whether a predefined portion of a content page triggering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, and causes a said electronic content file designated in said stored data record to be retrieved from said server and rendered at said designated content rendering area of said electronic pages ~~and~~if said content page triggering areas ~~are the same areas.~~is within said dimensions and scrolling position.

8. (Currently Amended) The system of claim 1, wherein said ~~content page triggering area has positional coordinates, said viewer's browser window dimensions and scrolling position have positional coordinates, and said correlator code determines when said designated content page triggering area is within a content viewer's browser window dimensions and scrolling position by determining whether there is correspondence between the positional coordinates of said content page triggering area and the positional coordinates of said viewer's browser. window dimensions and scrolling position.~~ system software application generates a new correlator code for each viewer request for an electronic content page wherein said tag is placed.

9. (Original) The system of claim 1, wherein said network comprises one or more networks selected from the group consisting of local area computer networks, wide area computer networks, the Internet, cable communications networks, satellite communications networks, television frequency networks, radio frequency communications networks, powerline communications networks and cellular communications networks.

10. (Currently Amended) The system of claim 1, wherein said content files ~~to be~~is rendered ~~in said content page areas is rendered when the said~~ if said correlator code determines that a designated content page triggering area or a designated content rendering area is partially within said content viewer's browser window dimensions and scrolling position.

11. (Currently Amended) The system of claim 1, wherein said correlator code monitors more than one designated content rendering area within the same content page. ~~further comprising one or more software applications for compilation and presentation of reports pertaining to content rendering activity data with respect to said content page rendering areas of said content pages.~~

12. (Currently Amended) The system of claim ~~11, wherein said~~1, further comprising one or more software applications for providing reports pertaining to content rendering activity data ~~further comprise reports comparing~~ with respect to a said content rendering ~~activity at content page rendering areas located within the same content page~~area.

13. (Currently Amended) The system of claim 12, wherein said reports pertaining to content ~~page rendering areas within said same content page that are compared in said reports comprise one or more areas selected from the group consisting of the top of said content page, above the fold of said content page, below the fold of said content page and the bottom of said content page~~ rendering activity further comprise reports comparing content rendering activity at two or more content rendering areas.

14. (Currently Amended) The system of claim ~~11~~1, wherein said ~~reports comprise data pertaining to how long said~~ system causes a content ~~was~~ rendered event to ~~said viewer at~~be counted if said electronic content file is rendered at a said content ~~page~~ rendering area.

15. (Currently Amended) The system of claim ~~11~~12, wherein said reports comprise data pertaining to ~~the number of~~how long a said ~~viewers to whom said~~ electronic content file was rendered to a viewer at a said content ~~page~~ rendering area.

16. (Currently Amended) The system of claim ~~11~~12, wherein said reports comprise data pertaining to the ~~geographic location~~number of said viewers to whom a said electronic content file was rendered at a said content ~~page~~rendering area.

17. (Currently Amended) The system of claim ~~11~~12, wherein said reports comprise data pertaining to the geographic location of a said viewer ~~browser versions used by said viewers~~ to whom a said electronic content file was rendered at a said content rendering ~~page~~ area.

18. (Currently Amended) The system of claim ~~11~~12, wherein said reports comprise data pertaining to ~~how many times said content was rendered to said viewers at said content~~ browser version used by a said viewer to whom a said electronic content file was rendered at a said content ~~page~~ rendering area.

19. (Currently Amended) The system of claim ~~11~~12, wherein said reports comprise data pertaining to how many times said content file was rendered to a said viewer at a said content ~~click activity with respect to said content rendered to said viewers at said content page~~ rendering area.

20. (Currently Amended) The system of claim ~~1, wherein said system custom software applications further comprise means for creating a unique identification code that is assigned to each content viewer/browser.~~12, wherein said reports comprise data pertaining to viewer click activity with respect to said electronic content rendered to a said viewer at a said content rendering area.

21. (Currently Amended) ~~The system of claim 20, wherein said means for creating a unique identification code that is assigned to each content viewer/browser comprises said correlator code.~~ The system of claim 1, wherein the correlator code causes a communication to be sent to a said server if a said electronic content file is rendered in a said content rendering area and said content rendering area is at least partially within the dimensions and scrolling position of the browser window displayed on the display device of said viewer's electronic communications device.

22. (Currently Amended) ~~A method for controlling the rendering of content via an electronic communication network on a designated content page rendering area of a content page based on determination of when said designated content page rendering area of said content page is within the browser window dimensions and scrolling position of a viewer's browser window, comprising the steps of:~~

~~designating one or more content pages, one or more content page rendering areas and one or more content files, said content files being previously stored in electronic file format in a mass storage device of a computer system for rendering at said designated content page rendering areas of said content pages;~~

~~storing as a record within a database data pertaining to said content pages, said content page rendering areas and said content files;~~

~~generating and placing on said designated content pages a tag/link that when activated by a content page viewer request for said designated content page, links to a system server-side application and retrieves, via said server-side application, data from said record stored in said system server-side database and data pertaining to said viewer and viewer browser from said content page request;~~

~~generating and writing a correlator code to said designated content pages which determines whether said designated content rendering areas of said designated content pages is within said viewer's browser window dimensions and scrolling position and generates an HTML layer to serve as a marker for said designated content page rendering areas where said designated content file is to be rendered;~~

~~generating a query string and link for placement at said content pages, which when activated, by said correlator code based on detection that said designated content page~~ The system of claim 1, wherein said system counts a view if said electronic content file is rendered in said content rendering area and said content rendering area is at least partially within the dimensions and scrolling position of ~~said viewer's browser window, dynamically generates HTML codes and tags to render said designated content files in said content page rendering areas of said content pages.~~the browser window displayed on the display device of said viewer's electronic communications device.

23. (Currently Amended) ~~The method of claim 22, further~~ A method for controlling the rendering of content via an electronic communication network, comprising the ~~step of designating a content page triggering areas which is different from said content page rendering areas, which when within said viewer's browser window~~ steps of:

receiving via a user interface of a computer system having one or more computer processors and one or more software application, data designating: (i) one or more electronic content pages having one or more content page rendering areas within a said electronic content page, (ii) one or more of said content page rendering areas and (iii) one or more electronic content files, said electronic content files being previously stored at a server;

storing as a record within a database said data designating a said content page, said one or more content page rendering areas and said one or more content files;

generating at said computer system-end a tag/link for placement on said designated electronic content page;

causing a software application at said computer system to execute in response to said tag/link being activated by a viewer request for said designated electronic content page, wherein said viewer makes said request via an electronic communications device communicating via said electronic communications network, said electronic communications device having display screen displaying a browser window for a perceiving electronic content pages within the area of said window defined by said window's dimensions and scrolling position~~, triggers rendering of said content files at said content page rendering areas.~~;

retrieving, via said software application, data from said stored record;

retrieving data pertaining to said viewer browser from said viewer's electronic content page request;

generating via a software application at said computer system-end a correlator code for embedding at said content page for determining whether a said designated content rendering area of said designated electronic content page is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device;

monitoring, via said correlator code at said designated content page, whether said designated content page rendering area is within the dimensions and scrolling position of the

browser window displayed on the display screen of the viewer's electronic communications device;

causing said designated electronic content files to be rendered at said designated content page rendering area of said designated electronic content page if said correlator code determines that said designated content page rendering area is at least partially within said window dimensions and scrolling position.

24. (Currently Amended) The method of claim 23, further comprising the step of monitoring, via said correlator code at said designated content page, whether a predefined portion of a designated content page triggering area which is different from said content page rendering area is within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device, and causing said content file to be rendered at said content page rendering area if said content page triggering area is determined to be within the dimensions and scrolling position of the browser window displayed on said display screen. ~~The method of claim 22, wherein said electronic communications network comprises one or more networks selected from the group consisting of local area computer networks, wide area computer networks, the Internet, cable communications networks, satellite communications networks, television frequency networks, radio frequency networks, powerline communications networks and cellular communications networks.~~

25. (Currently Amended) The method of claim 23 wherein said electronic communications network comprises one or more networks selected from the group consisting of local area computer networks, wide area computer networks, the Internet, cable communications networks, satellite communications networks, television frequency networks, radio frequency networks, powerline communications networks and cellular communications networks. ~~The method of claim 22, wherein said content files to be rendered in said content page rendering areas is rendered when said designated content page rendering area is partially within said content viewer's browser window dimensions and scrolling position.~~

26. (Currently Amended) The method of claim ~~22~~23, further comprising the step of ~~compiling and presenting reports pertaining to content rendering activity data with respect to said content page rendering areas of said content pages.~~causing a communication to be sent via said electronic communications network if a said electronic content file is rendered in a said content rendering area and said content rendering area is at least partially within the dimensions and scrolling position of the browser window displayed on the display screen of the viewer's electronic communications device.

27. (Currently Amended) The method of claim ~~26, wherein said~~23, further comprising the step of ~~compiling and presenting~~providing reports ~~further comprises comparing~~pertaining to content rendering activity ~~at~~data with respect to said content ~~page~~ rendering ~~areas located within the same~~ area of said electronic content page.

28. (Currently Amended) The method of claim 27, wherein said step of providing reports further comprises comparing content ~~page~~ rendering ~~areas within said same content page comprise one~~ activity at two or more content rendering areas ~~selected from the group consisting of the top of said content page, above the fold of said content page, below the fold of said content page and the bottom of said content page~~.

29. (Currently Amended) ~~The method of claim 26, wherein said step of compiling and presenting reports further comprises compiling and presenting data pertaining to how long said content was rendered to said viewer~~ The method of claim 23, further comprising the step of causing the rendering of a said electronic content file at a said content page rendering area to be counted if said electronic content file is rendered at said content page rendering area after said content rendering area is determined to be at least partially within the dimensions and scrolling position of said browser window.

30. (Currently Amended) The method of claim ~~26~~27, wherein said step of ~~compiling and presenting~~ providing reports further comprises ~~compiling and presenting~~ providing data pertaining to ~~the number of~~how long a said ~~viewers to whom said~~electronic content file was rendered to a said viewer at a said content page rendering area.

31. (Currently Amended) The method of claim ~~26~~27, wherein said step of ~~compiling and presenting~~ providing reports further comprises ~~compiling and presenting~~ providing data pertaining to the ~~geographic location~~ number of said viewers to whom a said electronic content file was rendered at a said content page rendering area.

32. (Currently Amended) The method of claim ~~26~~27, wherein said step of ~~compiling and presenting~~ providing reports further comprises ~~compiling and presenting~~ providing data pertaining to ~~browser versions used by said viewers~~ the geographic location of a said viewer to whom a said electronic content file was rendered at a said content page rendering area.

33. (Currently Amended) The method of claim ~~26~~27, wherein said step of ~~compiling and presenting~~ providing reports further comprises ~~compiling and presenting~~ providing data pertaining to ~~how many times said~~ the browser version used by a said viewer to whom a said electronic content file was rendered ~~to said viewers~~ at a said content page rendering area.

34. (Currently Amended) The method of claim ~~26~~27, wherein said step of ~~compiling and presenting~~ providing reports further comprises ~~compiling and presenting~~ providing data pertaining to ~~viewer click through activity with respect to said~~ how many times a said electronic content file was rendered ~~to said viewers at~~ a said content page rendering area.

35. (Currently Amended) The method of claim ~~22, further comprising the step of creating and assigning a unique identification code to each viewer's browser.~~27, wherein said step of providing reports further comprises providing data pertaining to viewer click through activity with respect to a said electronic content file rendered to a said viewer at a said content page rendering area.