

No. 19-1210

*In the United States Court of Appeals
for the Federal Circuit*

DISTEFANO PATENT TRUST III

Plaintiff-Appellant,

v.

LINKEDIN CORPORATION

Defendant-Appellee.

Appeal from the United States District Court for the District of Delaware
in Case No. 17-1798-LPS-CJB, Judge Leonard P. Stark

**REVISED OPENING BRIEF FOR APPELLANT
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CERTIFICATE OF INTEREST

Counsel for the Appellant, DiStefano Patent Trust III, LLC certifies the following:

1. The full name of every party or amicus represented by me is:

DiStefano Patent Trust III, LLC
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

None
4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

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5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. See Fed. Cir. R. 47. 4(a)(5) and 47.5(b). (The parties should attach continuation pages as necessary).

*LinkedIn Corporation v. DiStefano Patent Trust
III, LLC*, IPR2019-00419 (P.T.A.B. pending).

Dated: March 27, 2019

By: /s/ Scott D. Paul
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STATEMENT OF RELATED CASES

On December 14, 2018, LinkedIn filed a Petition for *inter partes* review of the U.S. Patent No. 8,768,760 (the "'760 Patent") before the United States Patent and Trademark Office Patent Trial and Appeal Board (PTAB). The PTAB has not yet rendered a decision on whether to institute an *inter partes* review.

STATEMENT OF JURISDICTION

The district court had jurisdiction over this patent infringement action based on 28 U.S.C. §§ 1331 and 1338(a). On September 28, 2018, the district court issued an order granting LinkedIn's Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6). On October 17, 2018, the district court entered a final judgement of invalidity of the '760 Patent. On November 14, 2018, Appellant timely filed a Notice of Appeal initiating the present appeal. Fed. R. App. P. 4(a)(1)(A). This Court has jurisdiction under 28 U.S.C. § 1295(a)(1).

STATEMENT OF THE ISSUES

1. Whether the district court legally erred by failing to apply Third Circuit procedural law in evaluating on a Rule 12 Motion to Dismiss whether the complaint has satisfied the requirements of Rule 8(a)(2) which requires: (1) identifying the elements necessary to plead a claim of patent infringement, (2) identifying any allegations that are not entitled to the assumption of truth, and (3) assuming the veracity of well-pleaded factual allegations to determine whether they plausibly give rise to an entitlement to relief.

2. Whether the district court legally erred in finding under *Alice* Step One that patent Claim 1 is directed to an overly generalized abstract idea of "facilitating cross-marketing relationships," when the claims are limited to a specific, improved process, performed by a computer, for creating reciprocal links between a pair of webpages.

3. Whether the district court legally erred under *Alice* Step Two by ignoring that Claim 1 encompassed substantially more than the abstract idea of "facilitating cross-marketing relationships" because it requires the inventive concept of an improved process for creating reciprocal links between a pair of webpages.

STATEMENT OF THE CASE

U.S. Patent No. 8,768,760 ("760 Patent"), entitled "Reciprocal Linking Arrangement Between Web Pages," issued on July 1, 2014, to Thomas L. DiStefano III. The '760 Patent ultimately claims priority to U.S. Patent No. 7,996,259, which was filed on June 7, 2000.¹ Appx054, 1:7-14.

On December 14, 2017, DiStefano Patent Trust III, LLC ("DiStefano") filed the underlying patent infringement action against LinkedIn Corporation ("LinkedIn") asserting infringement of the '760 Patent. On February 22, 2018, DiStefano filed an Amended Complaint that is at issue in this appeal. Appx070-091. On March 8, 2018, LinkedIn filed a Motion to Dismiss For Failure to State a Claim under Federal Rule of Civil Procedure 12(b)(6), arguing that the asserted claims of the '760 Patent lacked patent eligible subject matter under 35 U.S.C. § 101. Appx140-164. DiStefano filed its opposition to LinkedIn's motion on April 5, 2018. Appx165-184. LinkedIn replied on April 19, 2018, Appx185-200, and the district court heard oral argument on July 31,

¹ On April 12, 2016, U.S. Patent No. 7,996,259 was subsequently reissued as RE45,971.

2018. Appx201-257. On September 28, 2018, the district court granted LinkedIn's Motion to Dismiss, Appx001-015, and on October 17, 2018, the court granted judgment of invalidity of the '760 Patent against DiStefano for failure to claim patent-eligible subject matter under 35 U.S.C. § 101. Appx016. DiStefano timely appealed.

I. Underlying Technology of the World Wide Web and Reciprocal Links

An understanding of the state of the art at the turn of the twenty-first century helps to provide the context within which the invention claimed in the '760 Patent was conceived and developed.

A. World Wide Web in 2000

When the priority application of the '760 Patent was filed on June 7, 2000, the titans of today's internet were either in their infancy (Amazon, 1995; eBay, 1995; Google, 1998) or years away from existence (Facebook, 2004; Twitter, 2006). After all, the World Wide Web was only first proposed in 1989 by Tim Berners-Lee. In 1990, Berners-Lee created "the three fundamental technologies that remain the foundation of today's web: ... HTML, URI ... (also commonly called a URL), [and]

HTTP." In 1993, CERN put the World Wide Web software (including both a browser and a web server) in the public domain.

B. Reciprocal Links

The terms *link* and *hyperlink* are oftentimes used interchangeably. In operation, a link is a specific type of computer code, which when activated causes the reading device (e.g., an internet browser) to retrieve data (e.g., a web page) found at a location indicated by the link. If the retrieved data is a web page, for example, the web page is then displayed by the reading device. As another example, if the retrieved data is a music file, the reading device can cause the music file to be played.

The term hyperlink is also associated with a URL (Uniform Resource Locator) as the URL is a target of the hyperlink. Consistent with its name, a URL not only identifies a resource but also identifies a location of the resource. A URL is the best known subset of a URI (Uniform Resource Identifier), and the terms URI and URL are also oftentimes used interchangeably.²

² There is considerable overlap between the claimed "functional identification element" and the known terms of hyperlink, link, and URL. For purposes of this appeal, the term "link" is used throughout.

Reciprocal links describe a particular configuration of a pair of websites (or web pages) in which a first website includes link to a second website, and the second website includes a link back to the first website as are recited in Patent Claim 1 of the '760 Patent. Appx067, 28:18-29. As discussed *infra*, while reciprocal links were known in the art at the time of DiStefano's invention, DiStefano recognized that creating reciprocal links for web pages was a cumbersome process that his claimed invention improves upon.

II. DiStefano's Invention

A. Background

In 1996, DiStefano recognized the importance of the internet while publishing his first website, www.theup-tick.com. As a self-taught programmer without a computer science background, DiStefano also realized how difficult it was for a layperson to create his or her own web pages and websites. As stated in the '760 Patent, "[t]he World Wide Web (web) has rapidly become an invaluable tool to individuals and businesses," but "the average individual has little or no knowledge about how to create a web page [and] does not know how to create an HTML document or to post that document to a server computer." Appx054, 1:30-

2:5. It was this recognition that drove DiStefano's multi-year process of inventing the technologies described in the '760 Patent – many of which were incorporated in the website, www.mystickyweb.com, which was launched on June 8, 2000.

The specification of the '760 Patent, as a whole, presents DiStefano's approach to improving the technology by which web pages are created and posted on the World Wide Web. Much of DiStefano's '760 Patent disclosure is devoted to describing how a user, with little computer background, can create his or her own webpage using the tools described therein without the need for web page development services. Appx056, 6:44-52; Appx058, 10:51-60. As part of creating this system, DiStefano identified many types of features that users may want to include in their websites. For example, a user may want to include functions such text editing, Appx058, 10:6-28, auctions and/or a shopping cart, Appx062, 17:26-18:18, among other website features. The particular website feature addressed by Patent Claim 1 is the creation of reciprocal links between websites. Appx065-066, 24:22-25:32.

B. Claim 1 of the '760 Patent

Claim 1 requires:

1. A method, within and by a computer hardware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising:

receiving, from a first computer associated with the first user, a first indication to opt into a reciprocal linking arrangement;

receiving, from a second computer associated with the second user, a second indication to opt into the reciprocal linking arrangement;

establishing, within a database associated with the computer hardware system, the reciprocal linking arrangement based upon both the first and second users opting to participate in the reciprocal linking arrangement;

including, within the second web page and based upon the reciprocal linking arrangement, a second functional identification element associated with the first [user];³ and

including, within the first web page and based upon the reciprocal linking arrangement, a first functional

³ The phrase "with the first entity" was replaced by "with the first user" in a Certificate of Correction. Appx069.

identification element associated with the second [user],⁴ wherein

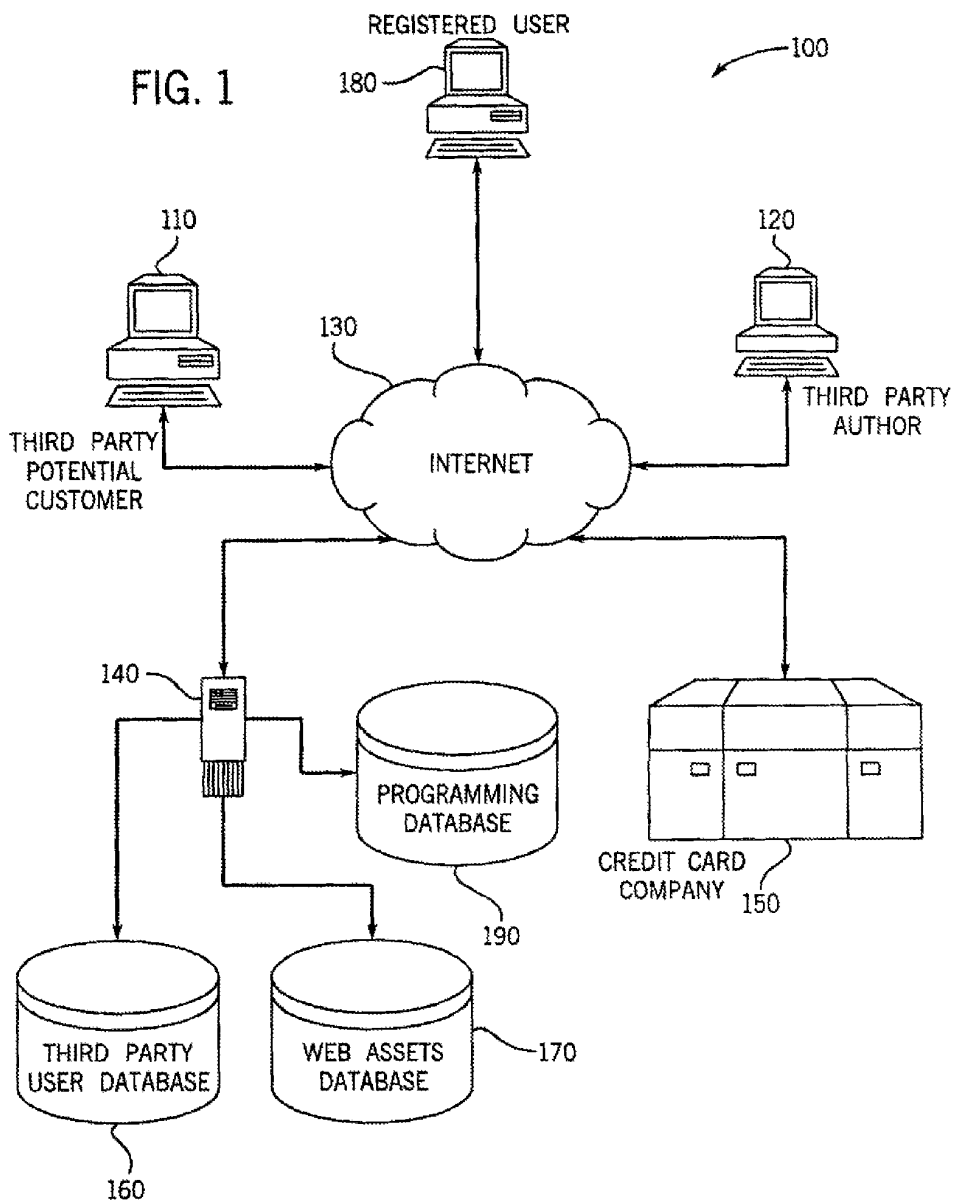
the second functional identification element includes a link to the first web page, and

the first functional identification element includes a link to the second web page.

Appx067, 28:4-29. Claim 1 of the '760 Patent specifically sets forth the particular manner by which web pages with reciprocal hyperlinks are generated for posting on the World Wide Web. *Id.*

As set forth in the preamble, the claimed operations are performed in "a computer hardware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user." Appx067, 28:4-7. A high-level drawing of the server system is illustrated in Figure 1, Appx025, which is reproduced below:

⁴ The phrase "with the second entity" was replaced by "with the second user" in the Certificate of Correction. Appx069.



The '760 Patent discloses that "[a] server computer is a computer which stores web page information, retrieves that information in response to a browser's request, and sends the information, via the internet, to the client computer." Appx054, 1:53-59. The '760 Patent

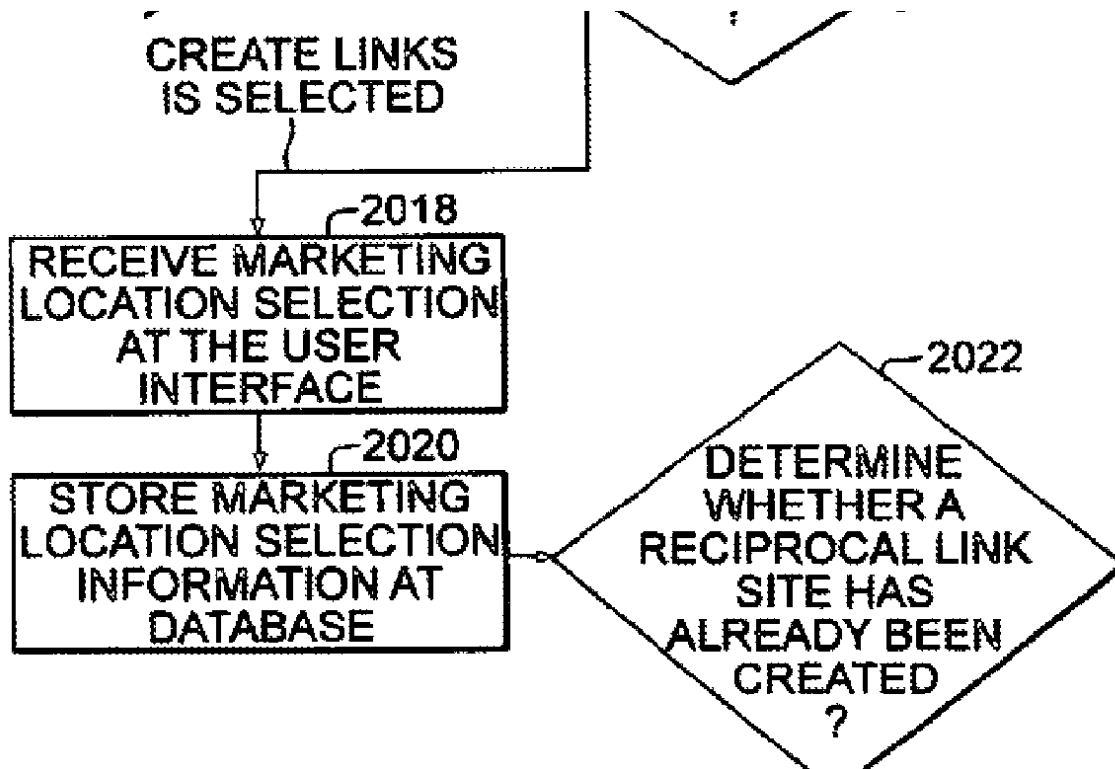
further discloses that the "system 100 includes a server computer 140 operably connected to the internet 130 using standard techniques well-known in the art." Appx056, 5:53-60.

Patent Claim 1 also requires "receiving, from a first computer associated with the first user, a first indication to opt into a reciprocal linking arrangement" and "receiving, from a second computer associated with the second user, a second indication to opt into the reciprocal linking arrangement." Appx067, 28:8-13. These are mirror image operations that describe how first and second users, via the first and second computers, both opt into a reciprocal linking arrangement. For example, a user may be presented with an opportunity to create a link:

If the ... selection received at step 2004 is to create links, the system 100 then receives [website]⁵ selections at the user interface at step 2018.

Appx065, 24:46-48. This is illustrated in Figure 20A, Appx047, which is reproduced, in part, below.

⁵ This portion of the '760 Patent uses the terms "marketing locations" and "websites" interchangeably. Appx065, 24:53-55 ("information is later used to generate links at the selected marketing locations (i.e., websites)").



As also disclosed, "the registered user can identify addresses for websites to which the registered user desires its website to be linked." Appx061, 15:24-36.

Claim 1 next requires "establishing, within a database associated with the computer hardware system, the reciprocal linking arrangement based upon both the first and second users opting to participate in the reciprocal linking arrangement." Appx067, 28:14-17. The specification explains that, "[u]pon receiving the [website] selection information, the [website] selection information is stored at ... database 160 [and t]his

stored information is later used to generate links at the selected websites." Appx029, 24:50-55.

Once the reciprocal linking arrangement has been created, Claim 1 requires the inclusion of the reciprocal links into the first and second web pages:

including, within the second web page and based upon the reciprocal linking arrangement, a second functional identification element associated with the first [user]; and

including, within the first web page and based upon the reciprocal linking arrangement, a first functional identification element associated with the second [user].

Appx067, 28:18-24; Appx069. For example, the specification discloses that "the system determines whether a reciprocal link site has already been created in the registered user's website, for displaying links to other websites[, and i]f a link site has not yet been created, the system creates a link site on the registered user's website." Appx065, 24:53-62. Further, the specification discloses that "[o]nce the registered user has selected its desired [websites], the system 100 has sufficient information to create links to the registered user's website at other websites." Appx061, 15:41-45.

Claim 1 concludes by clarifying that the first and second functional identification elements each include links (i.e., "the second functional

identification element includes a link to the first web page" and "the first functional identification element includes a link to the second web page"). Appx067, 28:26-29. Consistent with this language, the term "functional identification element" includes both hyperlinks and banner ads. Appx051, 2:40-54; Appx057, 7:59-67. A banner ad is a specialized form of a hyperlink that also includes a graphic. Appx059, 11:7-26. The modifier "functional," within the claimed "functional identification element," was added during prosecution to clarify that the "identification element" does not merely present information but is functional within the context of computer operations, which is consistent with the function of a hyperlink.

III. Problems Addressed and Improvements Provided by Claim 1 of the '760 Patent

A. State of the Art and Problems at the Time of the Invention

At the time of the invention, preparation of a webpage was not usually done in house. Rather, it required working with both a website developer and a website service provider. The patent specification describes the state of the art at the time of the invention as follows:

The most commonly used avenue for an individual to get his web page on the internet is to employ one of numerous companies to provide, for a fee, web page/website development

services. After contacting such a website development company, the individual would meet with one of the company's web page designers to explain the individual's concept for his web page. The designer would then create the associated HTML document. After approval by the individual, the designer may provide the service of posting the web page to a server. The server typically is not associated with the website development company. Thus, the individual must separately contract with an ISP associated with the server to host the web page.

Appx054, 2:6-17. This process was expensive, time consuming, and inefficient. Appx054, 2:19-25.

The use of reciprocal links in webpages to create hyperlinks between separate individual's webpages was known at the time of DiStefano's invention. Reciprocal links are discussed, for example, in U.S. Patent 6,629,135 to Ross et al., assigned to DDR Holdings (hereinafter, Ross),⁶ which is cited on the '760 Patent. Appx024. Ross was originally cited as prior art by the examiner during prosecution of U.S. Patent No. 7,996,259, upon which the '760 Patent claims priority. Referring to column 1, lines 30-36, Ross states that "website

⁶ U.S. Patent 6,993,572 is the patent at issue in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014), which is a Continuation Application of U.S. Patent 6,629,135 to Ross, available at <https://patents.google.com/patent/US6629135>.

programmers increased visitor traffic by placing 'links' within their websites to other websites, usually related in content or function, in exchange for a reciprocal link ... [and] link sharing developed into a standard practice."

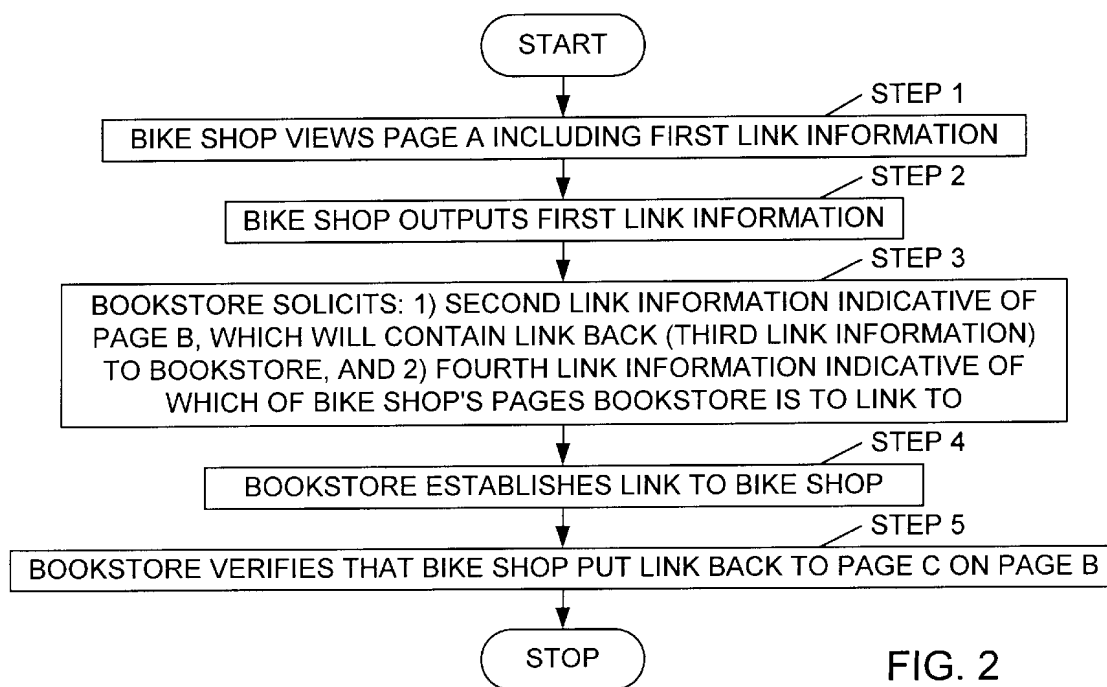
At the time of the DiStefano's invention, prior art systems that facilitated the creation of reciprocal links were also known, as described in U.S. Patent 5,995,099 to Horstmann (hereinafter, "Horstmann"), which is cited on the '760 Patent. Appx024.⁷ DiStefano successfully distinguished over Horstmann during the prosecution of U.S. Patent No. RE45,971, which is a reissue of aforementioned U.S. Patent No. 7,996,259. LinkedIn relied upon Horstmann as "information regarding the state of the art" in the aforementioned Petition for *inter partes* review of the '760 Patent.

Regarding the creation of reciprocal links in webpages, Horstmann recognized that "the tasks of communicating between the bike-shop and bookstore and manually adding links are time consuming." Horstmann, 1:43-55. Additionally, "it is possible that either the bookstore and/or the

⁷ Horstmann, *available at* <https://patents.google.com/patent/US5995099>.

bike-shop will neglect to establish the agreed upon links," and thus, there was a need to verify/enforce the creation of these links. Horstmann, 1:41-53; Horstmann, 4:13-24. Horstmann also explains that certain links may be "undesirable" and provides the user with techniques for removing these links. Horstmann, 6:4-6.

The process by which Horstmann describes facilitating the creation of reciprocal links is illustrated in Figure 2 and reproduced below:



Horstmann.

Horstmann's disclosure refers to two parties, a bookstore (and associated webpage) and the owner of a bike-shop (and associated webpage). In short, Horstmann discloses: bike-shop owner visits the

bookstore webpage (Step 1); the bike-shop owner indicates a desire to add a link to the bookstore webpage (Step 2); a system in concert with the bookstore webpage collects information needed to add the link (Step 3); a link to the bike-shop webpage from the bookstore webpage is added to the bookstore webpage (Step 4), and the system implements a verification process to ensure that the bike-shop webpage eventually contains a link back to the bookstore webpage (Step 5). Horstmann, 2:55-3:42. As discussed in more detail, *infra*, Patent Claim 1 improves upon this process for facilitating the generation of reciprocal links between webpages.

B. Improvement to Web Page and Reciprocal Link Creation

As part of streamlining the process of webpage creation, DiStefano combined the conventional functionality of a website development company (who created the website) and an internet service provider (ISP) whose server hosted the website. Appx056, 5:43-6:13. In combining these functions, DiStefano recognized that the resultant system could be configured to provide an improved methodology by which reciprocal links between webpages are generated.

The Patent limitations associated with this improved combined functionality are:

- "a computer hardware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user,"
- "including, within the second web page and based upon the reciprocal linking arrangement, a second functional identification element associated with the first [user],"
- "including, within the first web page and based upon the reciprocal linking arrangement, a first functional identification element associated with the second [user]."

Appx067, 28:4-7,18-24; Appx069.

The prior art conventional process described in DiStefano's specification involved as many as three different entities per user (i.e., the user, the website development services, and the ISP).⁸ Appx054, 2:6-54. DiStefano's combining of the different functionalities eliminates as many as 3 out of the 6 different entities, thus increasing the efficiency of the process.

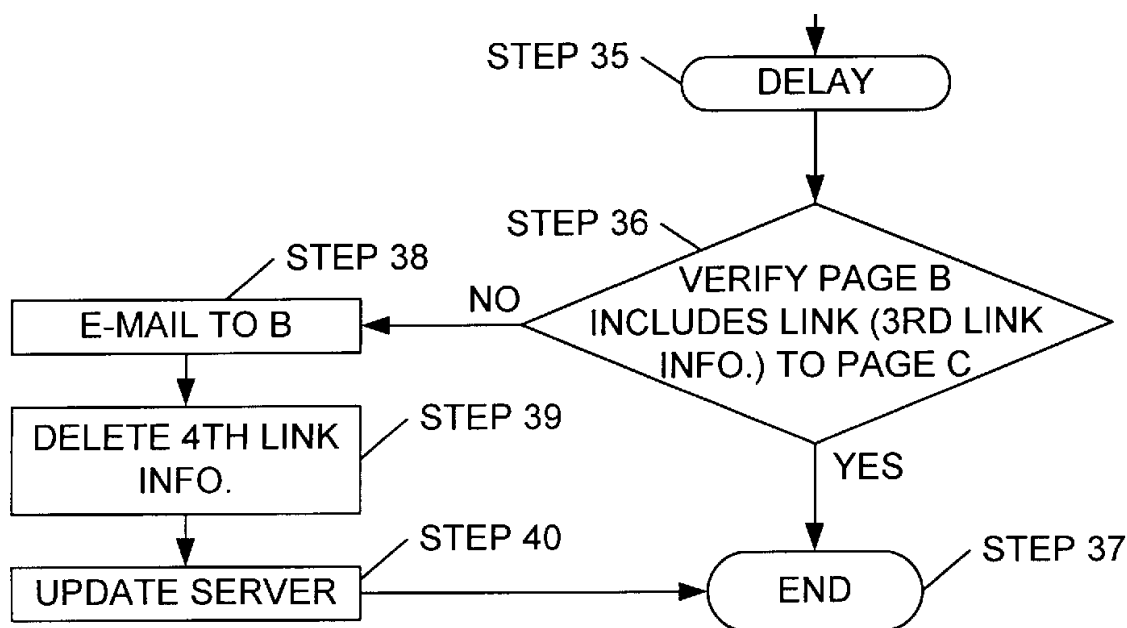
DiStefano's invention, however, does more than just improve upon conventional systems by taking old processes performed by different

⁸ By extension, the creation of reciprocal links could require the coordination of as many as six different entities (i.e., two each of the three different entities).

entities and performing these combined processes in a single system. In addition, Patent Claim 1 describes a different manner by which reciprocal links between webpage are generated, which results in additional benefits, as discussed in more detail *infra*. For example, the claimed process ends in the generation of reciprocal links between pages. However, the prior art Horstmann system ends at the verification process (Step 5 in Figure 2), while trusting that the other user (e.g., the bike-shop owner) follows through in the creation of a link back to the bookstore webpage.

C. DiStefano Eliminates the Need for Reciprocal Link Enforcement

As an example of the state of the prior art at the time DiStefano filed his application, Horstmann describes the need for a process that verifies the existence of a reciprocal link that was agreed upon. Horstmann, 4:12-23. The verification process of Step 5 in Figure 2 of Horstmann is illustrated in greater detail in steps 36-40 of Figure 3, which is reproduced in part below:



After the link has been added to the bookstore webpage in step 34 (not shown), Horstmann describes waiting for a period of time (step 35) before implementing a verification process in step 36. Horstmann, 4:7-13. This verification process includes checking the webpage of the bike-shop to see if a link back to the bookstore webpage has been included. Horstmann, 4:13-16. If not, in step 38, an email is sent that reminds the bike-shop owner to include the link back to the bookstore. Horstmann, 4:17-21. In steps 39/40, the process also entails deleting the original link that was added to the bookstore webpage should a link back not be provided in the bike-shop webpage. Horstmann, 4:21-23.

By contrast, DiStefano's method of Claim 1 negates the need for reciprocal link enforcement by allowing a single operator to both create and serve the reciprocal links. Horstmann, 28:4-8. While the system of Horstmann automatically generates the link in the bookstore webpage to the bike-shop webpage in step 34, Horstmann, 4:7-11, Horstmann does not contemplate the same system generating a link from the bike-shop webpage back to the bookstore webpage. However, Patent Claim 1 specifically claims "including, within the second web page and based upon the reciprocal linking arrangement, a second functional identification element associated with the first [user]" and "including, within the first web page and based upon the reciprocal linking arrangement, a first functional identification element associated with the second [user]." Appx067, 28:18-24; Appx069. Generating both links based upon the claimed reciprocal linking arrangement, eliminates the need to verify the existence of the other link. Thus, Patent Claim 1 represents an improvement over the state of the art, as represented by Horstmann.

D. Improvement Addressing Undesired Reciprocal Links

At the time of the invention, web designers faced the problem of "undesirable links." While Horstmann disclosed a mechanism by which these links can be deleted, Horstmann, 6:4-11, DiStefano improved on that solution by claiming a process that prevents undesired links before they are included in the user's website. For example, a competitor of the bookstore described in Horstmann could add a link to the competitor's website without any intention of providing a link back to the bookstore knowing that the added link will exist for a period of time before being deleted. Similarly, the competitor could add a link to a third party website having a negative reputation anticipating that potential customers may be offended by the mere presence of this link. While Horstmann describes that these links can subsequently be deleted, the damage is already done by either losing customers to a competitor or loss of reputation.

While Horstmann provides a mechanism that allows one party (i.e., the bike-shop) to choose the website that contains the link to the bike-shop's website, the same does not hold true for the bookstore. Horstmann, 2:55-62. Rather, the bookstore owner merely opts into an

arrangement that allows *any entity* to include links on the bookstore's web page *without any input* by the bookstore owner. Horstmann, 2:37-41. Thus, although Horstmann partially addresses the problem of undesirable links, Horstmann's process could be improved upon.

Claim 1 of the '760 Patent specifically addresses the problem of undesired reciprocal links using the claimed operations of "receiving, from a first computer associated with the first user, a first indication to opt into a reciprocal linking arrangement; receiving, from a second computer associated with the second user, a second indication to opt into the reciprocal linking arrangement." Appx067, 28:8-13. Thus, each user has control over the links contained within the respective user's web pages, which prevents their own website from including an unwanted link to an undesirable website. Patent Claim 1 improved over Horstmann by claiming a process that prevents undesired links before they are included in the user's website.⁹

⁹ DiStefano does not represent that Patent Claim 1 prevents all undesirable links *at all times*. For example, a link may subsequently become undesirable after a user has opted into the reciprocal linking arrangement.

SUMMARY OF THE ARGUMENT

Claim 1 at issue in DiStefano's '760 Patent sets forth that it is performed "within and by a computer hardware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user," Appx067, 28:4-7, and establishes an improved "reciprocal linking arrangement based upon both the first and second users opting to participate." Appx067, 28:4-29. Under Third Circuit law, the district court must apply a three step test to determine sufficiency of the pleading: (1) determine the elements DiStefano must plead, (2) identify allegations that are not entitled to the assumption of truth, and (3) assume the veracity of well pleaded allegations to determine if they plausibly give rise to relief. *See, e.g., Connelly v. Lane Constr. Corp.*, 809 F.3d 780, 787 (3d Cir. 2016). However, the district court erred in failing to apply this test.

Additionally, DiStefano made factual allegations that the claimed invention was directed to an improvement to computer technology and the ordered combination of elements recited in Patent Claim 1 was not merely conventional, well understood and routine, but solved technical problems known in the art of reciprocal linking. Appx072-073; Appx169;

Appx177; Appx180. By failing to credit DiStefano factual allegations but accepting instead LinkedIn's assertions, the district court committed reversible error. *See Aatrix Software, Inc. v. Green Shade Software, Inc.*, 882 F.3d 1121, 1130 (Fed. Cir. 2018). For either of these reasons, the district court's decision should be vacated and remanded to the district court.

Further, in performing *Alice* Step One, the district court improperly accepted LinkedIn's overgeneralized assertion that the claim is directed to "facilitating cross marketing relationships." The alleged abstract idea of "facilitating cross marketing relationships" improperly encompasses a wide variety of technologies that would normally not fall under the exceptions to 35 U.S.C. § 101. In addition, "facilitating cross marketing relationships" is so broad that it would invalidate claims directed to similar technical arts that this court previously has held patent eligible. *See, e.g., DDR Holdings*, 773 F.3d at 1258 (claim directed to "an ecommerce outsourcing system.").

Because Claim 1 is narrowly tailored and properly directed to improvements to a computer process of generating reciprocal links in webpages, Appx067, 28:8-25, it does not preempt "facilitating cross

marketing relationships." The district court's court finding that Claim 1 is ineligible under 35 U.S.C. § 101 should be reversed because LinkedIn cannot meet its burden to show invalidity by clear and convincing evidence.

Because *Alice* Step One is satisfied and Claim 1 is not directed to an abstract idea, that should be the end of the inquiry. However, the district court also erred in applying *Alice* Step Two because the district court failed to recognize that Claim 1 recites an inventive concept that is substantially more than either "facilitating cross-marketing relationships" or "generating reciprocal links." LinkedIn presented no evidence, except lawyer argument, that the ordered combination of elements recited in Claim 1 was conventional, well understood and routine, yet it convinced the court not to just dismiss the case under Rule 12(b)(6), but to render a judgment that Claim 1 was invalid. Appx017. However, when all of the evidence is considered, including the specifically tailored scope of the claims and the specific improvements to establishing reciprocal links between two webpages, the record is undisputed that the inventive concept of Claim 1 covers substantially more than just the

alleged abstract idea. For this reason as well, the court's decision that Claim 1 is invalid should be reversed.

STANDARD OF REVIEW

The Federal Circuit reviews "a district court's dismissal for failure to state a claim under the law of the regional circuit." *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1345 (Fed. Cir. 2014); *see also Berkheimer v. HP Inc.*, 831 F.3d 1360, 1364 (Fed. Cir. 2018) ("we apply the law of the regional circuit, . . . to issues not unique to patent law."). Here, the Third Circuit reviews a grant of a Rule 12(b)(6) motion to dismiss *de novo*. *See e.g., Schmidt v. Skolas*, 770 F.3d 241, 248 (3d Cir. 2014).

Substantive patent law issues are reviewed under Federal Circuit law. *See, e.g., Aero Prods. Int'l, Inc. v. Intex Recreation Corp.*, 466 F.3d 1000, 1016 (Fed. Cir. 2006). "[W]hether a claim recites patent eligible subject matter is a question of law which may contain underlying facts." *Berkheimer v. HP Inc.*, 881 F.3d at 1368. These factual allegations, taken as true, prevent resolving the eligibility question as a matter of law. *See Aatrix Software, Inc. v. Green Shade Software, Inc.*, 882 F.3d 1121, 1125 (Fed. Cir. 2018).

ARGUMENT

I. The District Court Legally Erred By Failing to Apply Rule 12 Pleading Requirements to DiStefano's Complaint

No specialized patent laws govern the procedural evaluation of a motion to dismiss for failure to state a claim. *See SCA Hygiene Prods. Aktiebolag v. First Quality Baby Prods., LLC*, 137 S. Ct. 954, 964 (2017) ("[p]atent law is governed by the same common-law principles, methods of statutory interpretation, and procedural rules as other areas of civil litigation").

The pleading requirement of Federal Rule of Civil Procedure 8(a)(2) requires "only 'a short and plain statement of the claim showing that the pleader is entitled to relief' in order to 'give the defendant fair notice of what the ... claim is and the grounds upon which it rests.'" *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Therefore, a Rule 12(b)(6) motion to dismiss should be granted only if the pleader is unable to articulate "only enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570; *accord Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (holding that a claim has "facial plausibility" when the complaint contains "factual

content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged").

The issue for the district court is "not whether the plaintiff will ultimately prevail, but whether the claimant is *entitled* to offer evidence to support the claims." *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974) (emphasis added). "Specific facts are not necessary" and a complaint "need only 'give the defendant fair notice of what the ... claim is and the ground upon which it rests.'" *Disc Disease Solutions Inc. v. VGH Solutions, Inc.*, 888 F.3d 1256, 1260 (Fed. Cir. 2018) (quoting *Erickson v. Pardus*, 551 U.S. 89, 93 (2007)).

A. Third Circuit Law Requires the District Court to Apply Three Steps

In interpreting the pleading standard established by *Twombly* and *Iqbal*, the Court of Appeals for the Third Circuit determined "a court reviewing the sufficiency of a complaint must take three steps." *Connelly*, 809 F.3d at 787. As stated therein:

First it must "tak[e] note of the elements [the] plaintiff must plead to state a claim." *Iqbal*, 556 U.S. at 675. Second, it should identify allegations that, "because they are no more than conclusions, are not entitled to the assumption of truth." *Id.* at 679; *see also Burtch v. Milberg Factors, Inc.*, 662 F.3d 212, 224 (3d Cir. 2011) ("Mere restatements of the elements

of a claim are not entitled to the assumption of truth." (citation and editorial marks omitted)). Finally, "[w]hen there are well-pleaded factual allegations, [the] court should **assume their veracity** and then determine whether they plausibly give rise to an entitlement of relief." *Iqbal*, 556 U.S. at 679 (emphasis added).

Id. In reviewing a motion to dismiss for failure to state a claim, a court may consider the allegations of the complaint, as well as documents attached to or specifically referenced in the complaint, and matters of public record. *Pittsburgh v. W. Penn Power Co.*, 147 F.3d 256, 259 (3d Cir. 1998); *see also* Appx003-004 (district court explaining Third Circuit law).

The district court failed to apply the Third Circuit's procedural three step test, instead proceeding directly to the two step substantive analysis of patent eligibility set forth in *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 134 S. Ct 2347, 2355 (2014). However, nothing in the Third Circuit's procedural test excludes its application from patent cases. In addition, the *Alice* substantive decision was based on a motion for summary judgment, not a motion to dismiss on the pleadings, and therefore applied a different standard. *See Alice*, 134 S. Ct. at 2353. Finally, if properly applied, the Third Circuit's test would have informed

the court on the proper application of the *Alice* test because it would have identified relevant disputed allegations.

By failing to identify the elements necessary to plead a patent infringement complaint, the district court also neglected to determine: second, if any of those allegations should be disregarded as "no more than conclusions" such that they are "not entitled to the assumption of truth." *See Burtch*, 662 F.3d at 24. Or third, whether they consisted of "well-pleaded factual allegations" so that the court will "assume their veracity" to determine if they give rise to an entitlement of relief. *See Iqbal*, 556 U.S. at 679. Had the court gone through the appropriate Third Circuit process, it would have reviewed the allegations of the complaint and made the required determinations rather than relying entirely on LinkedIn's arguments as to what the '760 Patent was directed to. *See, e.g.*, Appx009-015, discussed *infra*.

B. DiStefano's First Amended Complaint More Than Complied with Third Circuit Law

The first step in the Third Circuit test is to identify the elements necessary to plead patent infringement. *Iqbal*, 556 U.S. at 675. The district court failed to do so. If it had, the district court would have found DiStefano's pleadings to be compliant. In addition to the Amended

Complaint's recitation of the required elements, such as jurisdiction, venue, patent ownership, defendant's knowledge of the patent, and harm to the Plaintiff, the Amended Complaint sets forth very specific assertions of patent infringement by LinkedIn:

- **Provides allegations of infringement and identifies asserted claims:** "Defendant has and continues to directly infringe at least claims 1, 4, 5, 8, and 10 of the '760 patent" Appx073, ¶ 16.
- **Provides allegations of indirect infringement.** Appx088-089, ¶¶ 29-31.
- **Provides evidenced that LinkedIn satisfies each and every element of the asserted claims** by reciting those elements and providing an images from LinkedIn's website, annotated if helpful, showing how each claim element is satisfied by LinkedIn. *See* Appx072-089, ¶¶ 18-27.

In addition, the Amended Complaint goes further to anticipate many of the challenges later raised by LinkedIn in its Motion to Dismiss:

- **Identifies the scope of the asserted patent claims to computer systems configured to operate on the internet:**
 - Claim 1 ... recites a method within and by a computer hardware system that is configured to serve a first web page associated with a first user Appx073-074, ¶ 17.
 - [T]he invention applies a streamlined method of employing these tools to establish a reciprocal linking arrangement between webpages with a single web page implementation. Appx072, ¶ 12.
 - *See also* Appx065, ¶ 9; Appx072, ¶ 10.

- **Identifies technical problems solved by the claimed invention:**
 - Resolve(s) technical problems related to a streamlined process for developing web pages and posting those web pages on the internet. Appx072, ¶ 10; *see also id* at 11.
 - [A]llows parties to establish reciprocal linking arrangements between multiple web pages using only a single web page implementation system, as opposed to prior art processes that required multiple systems Appx072, ¶ 10.
- **Limits scope to computer hardware configured to operate on the internet.** Appx072, ¶ 10.
- **Rebuffs Any Allegation that the Claims Cover a Known "Pre-Internet" Business Practice.** Appx072, ¶ 11.
- **Rebuffs Any Allegation that the Claim Cover "routine or conventional use of computer hardware":**
 - [T]he invention applies a streamlined method of employing these tools to establish a reciprocal linking arrangement between webpages with a single web page implementation. Appx072, ¶ 12.
 - The '760 patent claims thus specify how to employ such a method to efficiently achieve the desired reciprocal linking arrangement. Appx072, ¶ 12.
- **Rebuffs Any Allegation of Preemption.** Appx072, ¶ 13.
- **Addresses Alice Step 1:** Appx071-073.
- **Addresses Alice Step 2:** "each claim of the '760 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept." Appx073, ¶ 14.

These patent infringement assertions more than satisfy Step One of the Third Circuit test for DiStefano to identify the elements of the cause of action. *See Iqbal*, 556 U.S. at 675. They also satisfy the Federal Circuit's interpretation of the requirements of *Iqbal/Twombly*. *See, e.g., Disc Disease*, 888 F.3d at 1260 (reversing a district court's Rule 12(b)(6) dismissal based on the assertion that the accused product meets "each and every element of at least one claim of the [asserted patents], either literally or equivalently.")

C. Under *Berkheimer/Aatrix*, Plausible Factual Allegations Will Defeat an Invalidity Defense Raised in a Motion to Dismiss

Patent invalidity is an affirmative defense. *See* 35 U.S.C. § 282(a) ("A patent shall be presumed valid. ... The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity."); *Microsoft Corp. v. i4i Ltd. P'ship*, 131 S. Ct. 2238, 2240 (2011) (holding that invalidity must be proved by clear and convincing evidence); *Monsanto Company v. Scruggs*, 459 F.3d 1328, 1334 (Fed. Cir. 2006) ("[a]ffirmative defenses to infringement include ... invalidity").

Recent Federal Circuit precedent also has recognized that plausible factual allegations will defeat a motion to dismiss that raises an invalidity defense. *See, e.g., Aatrix*, 882 F.3d at 1125. As set forth in section I.C., *supra*, DiStefano raised factual allegations in at least paragraphs 9, 10, 11, 12, 13, 14, 17. Appx071-073. In addition, patentees who adequately allege their claims contain inventive concepts survive section 101 eligibility analysis under Rule 12(b)(6). *See, e.g., BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1352 (Fed. Cir. 2016) (holding claims survive Rule 12(b)(6) after analysis of complaint). DiStefano did that as well in the same paragraphs of his Amended Complaint. *See, e.g., Appx071-073, see also Section I.B., supra.*

By specifically pleading these allegations, DiStefano surpassed the Third Circuit standard to overcome a Rule 12(b)(6) motion, which does not require a complaint to anticipate or overcome a defense to overcome a motion to dismiss under Rule 12(b)(6). *Schmidt v. Skolas*, 770 F.3d 241, 248 (3d Cir. 2014) ("[u]nder Federal Rule of Civil Procedure 8, a complaint need not anticipate or overcome affirmative defenses").

In addition, by pleading these allegations, DiStefano also satisfied this Court's Rule 12 standard to resolve all factual disputes in favor of

the non-movant. *See, e.g., Iqbal*, 556 U.S. at 679. Because "[the] patent eligibility inquiry may contain underlying issues of fact," *Berkheimer*, 881 F.3d at 1365 (internal citations omitted), a motion to dismiss for failure to state a claim should not be granted when plaintiff has made factual allegations that, taken as true, prevent resolving a patent eligibility question as a matter of law. *Id.*; *see also Aatrix*, 882 F.3d at 1130.

For example, factual allegations that "suggest that the claimed invention is directed to an improvement in the computer technology itself and not directed to generic components performing conventional activities" must be accepted as true by the court in response to a motion to dismiss. *Id.* at 1128. Here, DiStefano pled just that: "[t]he claims of the '760 patent recite an invention that is not merely the routine or conventional use of computer hardware systems or graphical user interfaces. ..." Appx073, ¶ 12; *see also* ¶¶ 11 (no known business practice); ¶¶ 10 (resolves technical problems); *see supra* Sec. II.B. Based on either the Third Circuit's procedural test or this Court's recent Section 101 decisions, DiStefano survived the Rule 12(b)(6) analysis, contrary to the district court's determination.

D. District Court Failed To Construe Factual Allegations in a Light Most Favorable to DiStefano

During the oral hearing, after DiStefano explained that the claimed invention is "an improvement in an already computerized field of web page development," the district court responded by stating "[w]ell, I suppose that is debatable." Appx226. The court's admission on its own confirms the factual dispute that should have been construed in DiStefano's favor.

Improperly resolving the issue in LinkedIn's favor, the court held that the claims were directed to "the abstract idea of facilitating cross-marketing relationships." Appx009. By accepting LinkedIn's overgeneralizations of what the claims are directed to the court made several contradictory factual conclusions that were both adverse to DiStefano and incorrect, e.g.:

Factual Allegations Resolved in LinkedIn's Favor

Stefano's Position	LinkedIn's Position and the Court's Findings
1. Are the claimed limited to the computer environment or are they "no different than brick and mortar stores?"	
the claims teach "transport[ing] the [virtual] user instantly to	"As LinkedIn explains, this method 'is not essentially

Stefano's Position	LinkedIn's Position and the Court's Findings
the linked website," an invention not (at least yet) realistic in the real world because the third-party agent would have to "port the physical storefronts . . . <i>into</i> its own establishment" Appx011. (quoting transcript at Appx208).	different from reciprocal marketing relationships formed between two brick and mortar stores selling complementary products." Appx009-010.
2. Do the claims solve or improve any known technical problems?	
"... related to a streamlined process for developing web pages and posting those web pages to the internet. ..." Appx073.	"Rather than improving any technical problem in the prior art, the patent 'relate[s] to ... marketing problems or dealing with the hassle of matchmaking.'" Appx009.
Creating reciprocal links solves a technical problem specifically by: "including within a first and second webpage, based on a reciprocal linking arrangement, functional identification elements that include links to the other webpage." See Appx067, 28:18-25.	"It may be difficult for novice web designers to arrange those relationships; but those aren't technical problems, those are marketing problems." Appx009 (quoting LinkedIn's counsel); <i>but see</i> Appx054, 4:52-53 (referring to prior art).
3. Is the problem solved by the claim a technical problem, asserted by DiStefano, or a marketing relationship, asserted by LinkedIn?	
"including within a first and second webpage, based on a reciprocal linking arrangement, functional	"It may be difficult for novice web designers to arrange those relationships; but those aren't technical problems, those are

Stefano's Position	LinkedIn's Position and the Court's Findings
identification elements that include links to the other webpage." <i>See</i> Appx067, 28:18-25.	marketing problems." Appx009 (quoting LinkedIn's counsel); <i>compare</i> Appx054, 2:52-53 (using same language to refer to prior art).

By resolving the above disputes in favor of LinkedIn, the Court erred as a matter of law, *see Aatrix*, 882 F.3d at 1125 (holding, factual allegations, taken as true, prevent resolving the eligibility question as a matter of law), which is reversible error. *Iqbal*, 556 U.S. at 679.

The court also recognized additional factual allegations made by DiStefano's the claimed invention was directed to an improvement to computer technology:

DiStefano responds that the patent recites non-abstract, particularized methods of web design and hosting that improve "an already computerized filed of web page development," making web development "easier for everyone," including those with and without technical knowledge. ... DiStefano further contends that the ordered combination of the claim elements recites an inventive concept.

Appx008-009 (internal citations omitted). Those contentions should be enough in the Rule 12 context to defeat a motion to dismiss. *See, e.g., Scheuer*, 416 U.S. at 236 (the issue is "whether the claimant is entitled

to offer evidence to support the claims."); *Disc Disease*, 888 F.3d at 1260; *accord*, *Aatrix*, 882 F.3d at 1130.

Instead of construing the allegations in DiStefano's favor, the district court flat out disagreed: "[r]ather than improving any technical problem in the prior art, the patent 'relate[s] to ... marketing problems.'" Appx009. The district court also disagreed that DiStefano's claim encompasses an improvement. Appx013 ("the claims are silent as any manner in which the improvement actually functions").

The district court also explicitly recognized that DiStefano's complaint made factual allegations that addressed Step 2 of the *Alice* test. Appx013 ("DiStefano contends factual allegations in the First Amended Complaint support the finding of an inventive concept"). However, the district court then dismissed these factual allegations by taking DiStefano's counsel's statements out of context and improperly determining that "[DiStefano conceded] ... during oral argument ... that the claimed method is simply an automation of already-established steps ..." *Id.* DiStefano made no such concession. Rather, counsel's statement from the transcript is quite different: "The patent concedes that *all of the*

individual components, at least those that are at issue here, are conventional components." Appx240, 1-5 (emphasis added).

There is nothing wrong with claiming conventional components because a process may claim a new use of known components. *See* 35 U.S.C. § 100(b) ("The term 'process' means process, art, or method, and includes a new use of a known process, machine, manufacture, or composition of matter, or material."). And, when evaluating patent claims, "virtually all [inventions] are combinations of old elements." *In re Rouffet*, 149 F.3d 1350 (Fed. Cir., 1998) (internal citations omitted) (reversal of USPTO obviousness determination); *DDR Holdings*, 773 F.3d at 1258 n.5 ("inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known"). Thus, merely reciting conventional components does not establish that the combination of elements cannot be substantially more than the alleged abstract idea. *See BASCOM*, 827 F.3d at 1352 (finding that the "claims may be read to 'improve[] an existing technological process'" despite previously finding "the limitations of the claims, taken individually,

recite generic computer, network and Internet components, none of which is inventive by itself").

Pursuant to sections 101 and 100 of Title 35, DiStefano has consistently argued that this was not a conventionally ordered combination of elements, and "you had to do something very different in order to achieve the result that this patent achieves." Appx241, 41, 48-49. DiStefano set forth in his complaint what he did differently in his claims:

the inventions allow parties to establish reciprocal linking arrangements between multiple web pages using only a single web page implementation system, as opposed to prior art processes that required multiple systems to accomplish the same result."

Appx072, ¶ 10; *see also id.* ¶ 12.

DiStefano's specific allegations, set forth in his complaint and recognized by the judge at oral hearing, Appx226, and in the court's decision, Appx008-009, Appx013, more than satisfy both the Third Circuit and this Court's Rule 12(b)(6) pleading standards. In addition, the district court's refusal to credit DiStefano's allegations, crediting LinkedIn's instead, only highlight these legal errors. On these grounds, the district court's decision should be at least vacated and remanded.

II. Under *Alice* Step One, Claim 1 is Specifically Limited to a Computer Hardware System that Improves the Process of Creating Reciprocal Links Between a Pair of Webpages

After bypassing the procedural requirements of a Rule 12 motion, the district court dove directly into the two step *Alice* analysis compounding its errors.

A. The District Court Legally Erred By Failing To Determine That Claim 1 Is Directed to Application of a Specific and Improved Process of Creating Reciprocal Links Between Webpages, and Not Merely to a Result

At *Alice* Step One, the court determines whether the claims at issue are directed to a patent ineligible concept. *Alice*, 134 S.Ct. at 2355. In making such a determination, the court rules on what the claims are directed to, and then determines if that is a patent ineligible subject matter. *See id.* Here, the claims are directed to an improved process of creating reciprocal links between a pair of webpages. *See* Statement of the Case (hereinafter, SOC) II.B. (description of the claims); SOC III.,A.-D. (improvements covered by the claims); Argument, I.,C.-D., *supra*, *see also* Appx067, 28:4-29 (Claim 1). Needless to say, DiStefano and LinkedIn disputed this issue, and under a judgment of invalidity, underlying factual disputes must be reviewed for clear error. *Microsoft*, 131 S. Ct. at 2240.

DiStefano does not contest that the claimed invention *could involve* cross-marketing relationships; however, merely involving an abstract idea does not mean the claim is "directed to that idea" nor does it render a claimed invention patent ineligible. The Court has recognized that "it is not enough to merely identify a patent-ineligible concept underlying the claim; we must determine whether that patent-ineligible concept is what the claim is 'directed to.'" *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1050 (Fed. Cir. 2016). DiStefano presented intrinsic evidence from the patent itself that the claim language was specifically limited. *See, e.g.*, Appx067, 28:4-29. Claim 1 sets forth exactly what it is directed to by identifying specific operations, performed within computer environment, used to generate reciprocal links between web pages. Rather than being "directed to" the broad and undefined "facilitating cross-marketing relationships" as LinkedIn argued, Appx144; Appx148-157; Appx203; Appx206-207; Appx209; Appx211, the claim language specifies:

1. A method, ***within and by a computer hardware system*** that is configured to serve a first web page associated with a first user and a second web page associated with a second user ... [who] opt into a ***reciprocal linking arrangement***"

Appx067, 28:4-29 (emphasis added). In addition, each of the five steps set forth in the claims specifically requires action related to the claimed reciprocal linking arrangement. Appx067, 28:8-25; *see also* SOC, I.B. These steps set forth an improved process to more efficiently generate reciprocal links between webpages. *See, e.g.*, SOC, I.B., II.B. (discussing the steps providing the improved functionality).

B. The Court's Proposed Direction of "Facilitating Cross-Marketing Relationships" Improperly Overgeneralizes the Claimed Invention

By ignoring the evidence set forth in the complaint, the patent, and Claim 1 itself, the district court improperly credited LinkedIn's unsupported lawyer argument, holding that the claims were directed to "the abstract idea of facilitating cross-marketing relationships," even though none of those words are not found in the claims. Appx009. LinkedIn provided no intrinsic evidence, much less any expert testimony to support this overgeneralized allegation of what Claim 1 was directed to, which fails to satisfy LinkedIn's burden to prove invalidity by clear and convincing evidence. *See Microsoft*, 131 S. Ct. at 2240.

The Court has recognized that an overgeneralization of a claimed invention, as occurred here, can be dangerous because "if carried to its

extreme, [it would make] all inventions unpatentable." *In re TLI Commc'ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016) (quoting *Diamond v. Diehr*, 450 U.S. 175, 189 n.12 (1981)). Referring to *Alice*, "describing the claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to § 101 swallow the rule." *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1337 (Fed. Cir. 2016) (internal citations omitted). Therefore, the Step one analysis must "articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful." *Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1347 (Fed. Cir. 2017). And that has to include reference to the claims themselves. The district court's determination under *Alice* Step 1, based on LinkedIn's unsupported argument, was untethered to the claim language and should be reversed.

**(i) "Facilitating Cross-Marketing Relationships"
Improperly Encompasses Patent Eligible Technology**

While cross-marketing is unquestionably patent ineligible as it describes a fundamental economic practice, facilitating cross-marketing is not. To facilitate is to "assist the progress of" or "to make easier or less

difficult" (i.e., to improve).¹⁰ Nearly any communication technology can be said to facilitate cross-marketing relationships. For example, the use of a telephone greatly assists in the creation of a relationship between two businesses by reducing the time needed to perform negotiation. This same facilitation is achieved with a facsimile machine or the underlying technology that is used to implement email and text messaging. LinkedIn's proposed abstract idea is described as such a high level of abstraction that it improperly encompasses technological advances such as the telephone, facsimile machine, email as well as improvements thereto.

(i) Facilitating Cross-Marketing Relationships Improperly Encompasses the Invention of *DDR Holdings*

LinkedIn's proposed abstract idea is so broad that it even encompasses the invention described in *DDR Holdings*. In *DDR*, the patents addressed the problem of "lur[ing] the [host website's] visitor traffic away." *DDR Holdings*, 773 F.3d at 1248. The Federal Circuit described how this problem was addressed as follows:

¹⁰ <https://www.dictionary.com/browse/facilitate>

The patents-in-suit disclose a system that provides a solution to this problem (for the host) by creating a new web page that permits a website visitor, in a sense, to be in two places at the same time. On activation of a hyperlink on a host website—such as an advertisement for a third-party merchant—instead of taking the visitor to the merchant's website, the system generates and directs the visitor to a composite web page that displays product information from the third-party merchant, but retains the host website's ... "look and feel." Thus, the host website can display a third-party merchant's products, but retain its visitor traffic by displaying this product information from within a generated web page that "gives the viewer of the page the impression that she is viewing pages served by the host" website.

Id. at 1248-49 (internal quotes omitted).

From the Court's description, it is evident that this invention facilitates cross-marketing relationships. Specifically, a merchant operating the host website and facing the prospect of having one's visitors lured away to another website would be hesitant to engage in a cross-marketing (e.g., a linking) relationship with the other website. However, the invention of *DDR* mitigates one of the downsides (i.e., luring visitor traffic away) of cross-marketing using links thereby facilitating their use. Thus, if "facilitating cross-marketing relationships" accurately characterizes an abstract idea, then the district court would improperly characterize, as being directed to an abstract idea, an invention that this Court has already determined to not be directed to an abstract idea.

Here too, DiStefano's claims address a challenge particular to the internet: in a method "within and by a computer hardware system," providing an improved "reciprocal linking arrangement." *See, e.g.*, SOC, I.B. (describing the claims); *See also* Appx067 28:4-29 (Claim 1). In *DDR*, as in DiStefano's invention, the "claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks." *DDR Holdings*, 773 F.3d at 1257. Both the claims at issue in *DDR* and Claim 1 in DiStefano are inextricably linked to a computer network and links between web pages. Consequently, DiStefano's invention is directed to patent eligible subject matter for similar reasons to why the invention in *DDR* is directed to patent eligible subject matter.

(ii) Claim 1 Does Not Preempt "Facilitating Cross-Marketing Relationships"

The district court found no reason to address preemption. Appx015 n.6. However, in *Alice*, the Supreme Court explained that "the concern that drives [the Section 101] exclusionary principle [is] one of preemption." 134 S.Ct. at 2354 (2013) (citing *Bilski v. Kappos*, 130 S. Ct. 3218 (2010)). Since then, the Federal Circuit has confirmed the importance of considering the preemptive impact of a claim while stating

that "[p]reemption is ... part and parcel with the § 101 inquiry." *Return Mail, Inc. v. United States Postal Serv.*, 868 F.3d 1350, 1370 (Fed. Cir. 2017).

The concern over preemption "arises when the claims are not directed to a specific invention and instead improperly monopolize 'the basic tools of scientific and technological work.'" *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016). Thus, lack of preemption is a factor to be considered during a patent eligibility analysis. *See Id.* at 1315-16 (Fed. Cir. 2016); *BASCOM*, 827 F.3d at 1352 ("[T]he claims of the ... patent do not preempt the use of the abstract idea of filtering content on the Internet or on generic computer components performing conventional activities.").

The Court has recognized that a claim that merely limits the abstract idea to conventional components (e.g., a generic computer or the internet) may still be patent ineligible. *See BASCOM*, 827 F.3d at 1352. Hence, the Court has held, for example, that the "specific structure of the claimed rules would prevent broad preemption of all rules-based means of automating lip synchronization." *McRo*, 837 F.3d at 1315; *see also Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288 (Fed. Cir.

2016) ("[claimed] arrangement is not so broadly described to cause preemption concerns ... it is narrowly circumscribed to the particular system outlined").

One way to determine that the claims do not preempt an abstract idea is if they employ specific, discrete limitations to the abstract idea. *See BASCOM* at 1351 ("[n]or do the claims preempt all ways of filtering content on the Internet; rather, they recite a specific, discrete implementation of the abstract idea of filtering content").

Claim 1 does not even remotely come close to broadly preempting the alleged abstract idea of *facilitating cross-marketing relationships*. Moreover, when the alleged abstract idea is narrowed to just *reciprocal links*, claim 1 does not even broadly preempt the use of reciprocal links. The district court erred by not referring specifically to the claim language to determine *how much* was allegedly preempted by claim 1. Had the Court done so, it would have recognized that the claim is specifically limited to the computer environment and to a specifically claimed improvement over prior art linking arrangements. Appx067, 28:3-29. Consequently, claim 1 does not broadly preempt "reciprocal links" much

less "facilitating cross-marketing relationships," which is evidence that the claimed invention is not directed to the alleged abstract idea.

C. Claim 1 is Directed to An Improvement to Computer Technology

Under 35 U.S.C. § 101, patentable subject matter includes "any new and use process, machine ... or any new and useful improvement thereof." In *Alice*, the Supreme Court recognized an improvement to an existing technological process can be patent eligible. 134 S.Ct. at 2358 (discussing *Diamond v. Diehr*, 101 S.Ct. 1048 (1981)). Consequently, under both steps of the *Alice* analysis, the Federal Circuit has found a claimed invention to be patent eligible based upon a finding that the invention is directed to a specific improvement in existing computer technology. *See, e.g., BASCOM*, 827 F.3d at 1348 (noting that an improvement to computer technology can render an invention patent-ineligible under step two of the *Alice* analysis); *Ancora Tech., Inc. v. HTC America, Inc.*, ___ F.3d ___ (Fed. Cir. 2018) (slip op., at 8) ("We have several times held claims to pass muster under *Alice* step one when sufficiently focused on such improvement").

Regarding computer-implemented inventions, the Court also has confirmed that "software-based innovations can make 'non-abstract

improvements to computer technology' and be deemed patent eligible subject matter." *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299, 1304 (Fed. Cir. 2018). These improvements can include, for example, an improvement to the usability of existing computer technology. *See Data Engine Tech LLC v. Google LLC*, __ F.3d __ (Fed. Cir. 2018) (slip op., at 3) (noting that patent addressed a problem associated with "ease of use of this [spreadsheet] technology"). However, there is a difference between an improvement to computer technology itself and an improvement to an abstract idea in which the computer is merely being used as a tool to implement the abstract idea. *SAP America, Inc. v. Investpic, LLC*, __ F.3d __ (Fed. Cir. 2018) (slip op., at 9) (determining that "claimed improvement [was directed to] a mathematical technique," which was not patent eligible).

(i) Claim 1 Is Not Directed To Merely a Result

The Federal Circuit has described, as "one helpful way of double-checking the application of the Supreme Court's framework to particular claims," an approach that considers "an important common-sense distinction ... between desired results (functions) and particular ways of achieving (performing) them." *Electric Power Group, LLC v. Alstom, SA*,

830 F.3d 1350 (Fed. Cir. 2016) (a claim that is "so result-focused, so functional, as to effectively cover any solution to an identified problem" is likely to be patent ineligible). A claim that is merely directed to a result "would 'inhibit[] innovation by prohibiting other inventors from developing their own solutions to the problem without first licensing the abstract idea.'" *Id.* (citing district court). On the other hand, "patenting a particular solution 'would incentivize further innovation in the form of alternative methods for achieving the same result.'" *Id.*

Here, the district court improperly determined that "the claims are silent as to any manner in which the improvement actually functions and instead, only claim the desired result." Appx012. The district court failed to appreciate the difference between the desired result (i.e., the end result) and the individual limitations leading to the result.

The end result of claim 1 of the '760 Patent is a pair of web pages that include reciprocal links. Appx067, 28:4-29. However, DiStefano does not merely claim this desired result because this result is part of the prior art. *See e.g., SOC, III.A., supra* (referring to Horstmann). Rather, DiStefano claims a different and specific set of operations that achieves the improved result of providing a pair of web pages that do not have the

specific drawback found in the prior art: (1) reducing the number of required participating entities, *see* SOC, III.B, *supra*; (2) eliminating the need for reciprocal link enforcement, *see* SOC, III.C, *supra*; and (3) improving the ability to police undesirable links. *See* SOC, III.D, *supra*.

(ii) Claim 1 Improves the Operations with Which Web Pages with Reciprocal Links are Generated

Unlike in *SAP America*, in which the improvement was directed to an abstract idea, , ___ F.3d at ___, slip op., at 9, DiStefano's claimed invention is directed to improving the process by which a pair of related web pages are generated. The claims reflect that the improvement is directed to a technological process that is necessarily tied to a particular type of computer hardware system (i.e., machine) configured to both generate and serve web pages. Appx067, 28:4-29.

In characterizing *Diehr*, the Supreme Court in *Alice* stated "[t]he claim employed a 'well-known' mathematical equation, but it used that equation in a process designed to solve a technological problem in 'conventional industry practice.'" 134 S.Ct. at 2358. A similar characterization can be applied to the claims of the '760 Patent. Notwithstanding that reciprocal links were well-known in the art, the reciprocal links were employed in the improvement of the process used to

generated related web pages. *See, e.g.,* SOC, III.A.-B. These points aside, links are not abstract ideas but sophisticated computer technology that have no real-world analogues. *See DDR Holdings*, 773 F.3d at 1258 (stating that there is "no possibility that by walking up to this kiosk, the customer will be suddenly and completely transported outside the warehouse store and relocated to a separate physical venue associated with the third-party — the analog of what ordinarily occurs in 'cyberspace'"); compare Appx011 ("DiStefano contends ... the claims teach 'transport[ing] the user instantly to the linked website,' an invention not (at least yet) realistic in real-world because the third-party agent would have to 'port the physical storefronts ... *into* its own establishment." (quoting DiStefano's Brief in Opposition to Rule 12 motion) (emphasis in original).

In *DDR Holdings*, this court recognized that the use of links between web pages "introduces a problem that does not arise in the 'brick and mortar' context." *DDR Holdings*, 773 F.3d at 1258. While the '760 Patent addresses different problems than the problem addressed in *DDR Holdings*, the problem of web page and reciprocal link creation that is addressed by the claimed invention is also one that does not occur in a

brick and mortar context and is not addressed by LinkedIn's brick and mortar analogue. For example, if the "marketer" described in LinkedIn's example was replaced with a computer, LinkedIn does not explain how a computer could "affix[] a poster advertising the gown store on the wall of the bakery." Additionally, LinkedIn's brick and mortar analogue does not address the problem of reciprocal link enforcement.

Contrary to LinkedIn's characterization, the claimed invention improves upon the process of generating associated web pages, which specifically involves serving of a web page having a link to another web page – an invention that is necessarily rooted in computer technology. *See DDR Holdings* at 1249 ("Representative claim 13 of the '572 recites ... a computer processor ... programmed, upon receiving an indication that the link has been activated ... to serve a composite web page ... with content based on the commerce object associated wit[h] the link."). When there is an improvement, the case law asks whether the improvement is directed towards a technological process or is it directed to the abstract idea. *See, e.g., Enfish*, 822 F.3d at 1335-35 (holding that improvements to technology or computer functionality do not always need to undergo the full eligibility analysis). Here, the claimed invention does not simply

improve upon an abstract idea. Rather, the claimed invention provides a novel improvement to a conventional computer process – the process of generating a pair of web pages that include reciprocal links. Therefore, claim 1 of the '760 Patent is patent eligible and this case should be reversed.

III. Under Step Two of *Alice*, the District Court Erred by Not Finding The Claimed Invention is "Substantially More" than Either "Facilitating Cross-Marketing Relationships" or "Reciprocal Links"

The Court need only reach *Alice* Step Two if it determines that Claim 1 is directed to an abstract idea. *McRo*, 837 F.3d at 1312. *Alice* Step Two has been described as "the search for an 'inventive concept,' or some element or combination of elements sufficient to ensure that the claim in practice amounts to 'significantly more' than a patent on an ineligible concept." *DDR Holdings*, 773 F.3d at 1255 (citing *Alice Corp.*, 134 S.Ct. at 2355). The inventive concept includes those "additional features," beyond the abstract idea, that assure "that the [claim] is more than a drafting effort designed to monopolize the [abstract idea]." *Mayo Collaborative Servs. v Prometheus Labs., Inc.*, 132 S.Ct. 1298, 1297 (2012). Therefore, this step involves "consider[ing] the elements of each claim both individually and 'as an ordered combination' to determine

whether the additional elements 'transform the nature of the claim' into a patent eligible application." *Alice*, 134 S.Ct. at 2355 (quoting *Mayo*, 132 S.Ct. at 1289). Step Two of the *Alice* test is satisfied when the additional elements "involve more than performance of 'well-understood, routine, [and] conventional activities previously known to the industry.'" *Content Extraction*, 776 F.3d at 1347-48 (quoting *Alice*, 134 S.Ct. at 2359).

A. LinkedIn Presented No Evidence that Ordered Combination of Elements Was Conventional, Well-Understood and Routine

In *Berkheimer*, this court held that "whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact." 881 F.3d at 1368. Moreover, such facts must be proven by clear and convincing evidence. *Id.* (citing *Microsoft*, 131 S. Ct. at 2240). LinkedIn, however, presented no evidence to support an adverse conclusion. In LinkedIn's Opening Brief, LinkedIn did not specifically address the ordered combination of elements. While LinkedIn alleged that the claimed invention involves "steps [that] could easily be performed by humans in an equivalent brick-and-mortar setting," Appx149-151, LinkedIn cited no

evidence to support a finding that the "longstanding reciprocal marketing practice" described in LinkedIn's Opening Brief was a well-known business practice.

During the oral hearing, only LinkedIn referred to the automation of known processes, Appx208; Appx218-220; Appx253-256. However, DiStefano only conceded that individual elements (e.g., computer hardware system, database, web pages, links) of the claimed invention were conventional. Appx249; Appx232-233 ("defendant's brief focuses on the conventionality of very specific computer elements and components. And I don't think we have a disagreement here"). Appx253-256. However, nearly all inventions are combination of known elements. *DDR Holdings*, 773 F.3d at 1258 n.5. Thus, reciting conventional components alone does not establish that the ordered combination of elements cannot be substantially more than the alleged abstract idea. *See e.g., BASCOM*, 827 F.3d at 1349. *See also* Argument I.C., II.D. As further support for this position, in its Opposition Brief and during oral hearing, DiStefano argued that the ***ordered combination of elements*** was unconventional and directed to an inventive concept. Appx180-183, Appx236-237, Appx240-241, Appx248-249, Appx295.

Naturally, LinkedIn disputed DiStefano's position, Appx195-196 ("DPT has not established that any innovative 'ordered combination' exists such that the claim 'steps were arranged in an unconventional manner.'"). However, LinkedIn bears the burden of proving invalidity based on clear and convincing evidence, which it failed to do. Instead, LinkedIn supported its position with lawyer argument. Appx215-216 ("we think the sequence here is exactly what you would expect"). LinkedIn also responded to the court's question "[w]hat is the evidence at this stage of the proceeding that the order was conventional," by stating:

if they say this process could be formed by a web design technology company prior to the time of the application, the method could be performed in that way ... the sequence is dictated by the steps ... [s]o we think that the order of the steps, being logical, are simply dictated by the claims themselves.

Appx254-255. First, LinkedIn misstates the background statements of '760 Patent, which specifically indicate that the end result (i.e., web pages with reciprocal links) was conventional, but the process was new and more efficient than the prior art processes. Appx242. Second, LinkedIn's lawyer's response improperly presumes, without evidence, that all of the individual steps were known.

The district court similarly erred by on focusing on the individual elements in the Memorandum Opinion:

DiStefano contends a factual dispute exists regarding whether the ordered combination of steps is routine and conventional, but given its multiple concessions during oral argument - including that the method involves all conventional elements present in the prior art and that the claimed method is simply an automation of already-established steps - and its failure to identify any reason to find the ordered combination non-routine, the Court sees no reason to conclude that the method steps, considered alone or in combination, are anything but routine and conventional. (See Tr. at 40 ("The patent concedes that ***all of the individual components***, at least those that are at issue here, are conventional components. There is no doubt about that. We don't contest it."); *id.* at 47 ("[C]reating reciprocal links on web pages' was well known in the prior art."); *id.* at 48 ("[P]rior art processes accomplish the same result.")) (emphasis added)

Appx014. The district court does not provide a citation for its alleged admission that the claimed method is "simply an automation of already established steps," because it cannot. DiStefano did not make such an admission.¹¹ The other statements the court holds as concessions do not render the claimed invention unpatentable. *See, e.g.*, Sections I.D, II.C., *supra*. Rather than considering the ordered combination of elements

¹¹ Instead, *only* LinkedIn referred to the automation of known processes. Appx208-209, Appx218-220, Appx250-253, Appx256.

recited in the claim, *Alice* 134 S.Ct. at 2355 n.3, ("patent claims 'must be considered as a whole'" *citing Diamond v. Diehr*, 450 U.S. 175, 188 (1981), the district court improperly relied on whether the individual elements were conventional, which is contrary *Alice*. Thus, LinkedIn has not met the evidentiary burden for establishing that Patent Claim 1 is invalid.

B. The Improvement Provided by the Claims are Substantially More Than the Alleged Abstract Idea

As previously discussed *infra*, Claim 1's inventive concept includes additional elements that provide multiple improvements over prior computer technology that ended with the same result (i.e., web pages with reciprocal links). *See* SOC III.A.-D., *supra*. Therefore, *even if* the claimed invention were directed to cross-marketing relationships in the form of web pages with reciprocal links, then "the specific improvements in the recited computer technology go beyond 'well-understood, routine, conventional activit[ies]' and render the invention patent-eligible." *See Id.* at 1348 (citing *Alice*, 134 S.Ct. at 2359).

While the Court will likely not need to reach *Alice* Step Two, even if the Court does, the record shows that the district court failed to address the improvements provided by the claims or the ordered combination of claim elements, either of which would have informed the court that Claim

1 covers substantially more than "facilitating cross-marketing relationships." For this additional reason, the district court's decision should be reversed and Claim 1 should be patent eligible under 35 U.S.C. § 101.

CONCLUSION

DiStefano respectfully requests this court reverse the district court's holding that Claim 1 of the '760 Patent and its asserted dependent claims are ineligible under 35 U.S.C. § 101, or at least, vacate the district court's grant of LinkedIn's Motion to Dismiss and remand for further proceedings.

Dated: March 27, 2019

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ADDENDUM

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DISTEFANO PATENT TRUST III, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 17-1798-LPS-CJB
	:	
LINKEDIN CORPORATION,	:	
	:	
Defendant.	:	
	:	
	:	

MEMORANDUM OPINION

Timothy Devlin, DEVLIN LAW FIRM LLC, Wilmington, DE

Attorney for Plaintiff DiStefano Patent Trust III, LLC

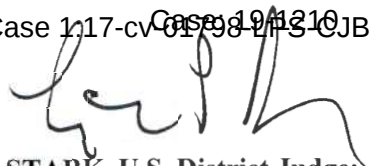
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September 28, 2018
Wilmington, Delaware

APPX001


STARK, U.S. District Judge:

Plaintiff DiStefano Patent Trust III, LLC (“Plaintiff” or “DiStefano”) asserts that Defendant LinkedIn Corporation (“Defendant” or “LinkedIn”) infringes DiStefano’s U.S. Patent No. 8,768,760 (the “’760 patent”), entitled “Reciprocal Linking Arrangement between Web Pages.” (D.I. 11 at 2-3) LinkedIn has filed a motion to dismiss, pursuant to Federal Rule of Civil Procedure 12(b)(6), on the grounds that the ’760 patent fails to claim patent-eligible subject matter under 35 U.S.C. § 101. (D.I. 12) The parties submitted briefing (D.I. 13, 16, 18) and the Court heard oral argument on July 31, 2018 (*see* D.I. 25) (“Tr.”). For the reasons stated below, the Court will grant LinkedIn’s motion to dismiss.

I. BACKGROUND

There ’760 patent relates to “developing web pages through the use of a graphical user interface.” ’760 Pat. at 1:25-26. Specifically, the patent describes a method of creating a reciprocal arrangement between two websites in order to market the first website at the second website. *See id.* at 3:12-28.

DiStefano contends LinkedIn infringes claims 1, 4, 5, 8, and 10 of the ’760 patent. (D.I. 11 at 4)¹ Independent claim 1 recites:

¹In its motion to dismiss, LinkedIn asserts that “there is no meaningful difference between the asserted claims and unasserted claims for purposes of invalidity under Section 101” and, therefore, requests the Court hold all claims invalid. (*See* D.I. 13 at 3 n.1) DiStefano responds that the unasserted claims are not part of this action and further, the asserted claims are directed to a method, whereas the unasserted claims are directed to a computer hardware system. (D.I. 16 at 7 n.1) The Court agrees with DiStefano that the unasserted claims are not a part of this action and thus, the Court’s analysis is limited to the asserted claims. *See Alcon Research Ltd. v. Barr Labs., Inc.*, 745 F.3d 1180, 1193 (Fed. Cir. 2014) (“The scope of any judgment should conform to the issues that were actually litigated.”); *see also Uniloc USA, Inc. v. ADP, LLC*, 279 F. Supp. 3d 736, 741 (E.D. Tex. 2017) (declining to consider invalidity of unasserted claims).

1. A method, within and by a computer hardware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising:

receiving, from a first computer associated with the first user, a first indication to opt into a reciprocal linking arrangement;

receiving, from a second computer associated with the second user, a second indication to opt into the reciprocal linking arrangement;

establishing, within a database associated with the computer hardware system, the reciprocal linking arrangement based upon both the first and second users opting to participate in the reciprocal linking arrangement;

including, within the second web page and based upon the reciprocal linking arrangement, a second functional identification element associated with the first entity; and

including, within the first web page and based upon the reciprocal linking arrangement, a first functional identification element associated with the second entity, wherein

the second functional identification element includes a link to the first web page, and

the first functional identification element includes a link to the second web page.

The remaining asserted claims all depend from claim 1. During oral argument, the parties agreed that claim 1 is representative. (*See* Tr. at 4 (“[C]laim 1 is representative.”), 50 (“[T]his case could rise or fall on claim 1 as to the asserted claims.”))²

²“The asserted dependent claims – 4, 5, 8, and 10 – add the following limitations: (4) a third party requesting the first web page and having the web page provided to it; (5) the ‘first web page’ including ‘one or more web pages’; (8) providing the first user a plurality of recommended web pages; and (10) the ‘second functional identification element’ including an ‘image.’” (D.I. 13 at 3)

II. LEGAL STANDARDS

A. Rule 12(b)(6) Motion to Dismiss

Evaluating a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) requires the Court to accept as true all material allegations of the complaint. *See Spruill v. Gillis*, 372 F.3d 218, 223 (3d Cir. 2004). “The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims.” *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1420 (3d Cir. 1997) (internal quotation marks omitted). Thus, the Court may grant such a motion to dismiss only if, after “accepting all well-pleaded allegations in the complaint as true, and viewing them in the light most favorable to plaintiff, plaintiff is not entitled to relief.” *Maio v. Aetna, Inc.*, 221 F.3d 472, 481-82 (3d Cir. 2000) (internal quotation marks omitted).

A well-pleaded complaint must contain more than mere labels and conclusions. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). A plaintiff must plead facts sufficient to show that a claim has substantive plausibility. *See Johnson v. City of Shelby*, 135 S. Ct. 346, 347 (2014). A complaint may not be dismissed, however, for imperfect statements of the legal theory supporting the claim asserted. *See id.* at 346.

“To survive a motion to dismiss, a civil plaintiff must allege facts that ‘raise a right to relief above the speculative level on the assumption that the allegations in the complaint are true (even if doubtful in fact).’” *Victaulic Co. v. Tieman*, 499 F.3d 227, 234 (3d Cir. 2007) (quoting *Twombly*, 550 U.S. at 555). A claim is facially plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the

misconduct alleged.” *Iqbal*, 556 U.S. at 678. At bottom, “[t]he complaint must state enough facts to raise a reasonable expectation that discovery will reveal evidence of [each] necessary element” of a plaintiff’s claim. *Wilkerson v. New Media Tech. Charter Sch. Inc.*, 522 F.3d 315, 321 (3d Cir. 2008) (internal quotation marks omitted).

The Court is not obligated to accept as true “bald assertions,” *Morse v. Lower Merion Sch. Dist.*, 132 F.3d 902, 906 (3d Cir. 1997) (internal quotation marks omitted), “unsupported conclusions and unwarranted inferences,” *Schuylkill Energy Res., Inc. v. Pa. Power & Light Co.*, 113 F.3d 405, 417 (3d Cir. 1997), or allegations that are “self-evidently false,” *Nami v. Fauver*, 82 F.3d 63, 69 (3d Cir. 1996).

B. Patentable Subject Matter

Under 35 U.S.C. § 101, “[w]hoever 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.” There are three exceptions to § 101’s broad patent-eligibility principles: “laws of nature, physical phenomena, and abstract ideas.” *Diamond v. Chakrabarty*, 447 U.S. 303, 309 (1980). “Whether a claim recites patent eligible subject matter is a question of law which may contain disputes over underlying facts.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018).

In *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 132 S. Ct. 1289 (2012), the Supreme Court set out a two-step “framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014). First, courts must determine if the claims at issue are directed to a patent-ineligible concept (“step

one”). *See id.* If so, the next step is to look for an “‘inventive concept’ – i.e., an element or combination of elements that is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself” (“step two”). *Id.* The two steps are “plainly related” and “involve overlapping scrutiny of the content of the claims.” *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016).

At step one, “the claims are considered in their entirety to ascertain whether their character **as a whole** is directed to excluded subject matter.” *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015) (emphasis added); *see also Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (“*Affinity Labs I*”) (stating first step “calls upon us to look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter”).

In conducting the step one analysis, courts should not “oversimplif[y]” key inventive concepts or “downplay” an invention’s benefits. *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1337-38 (Fed. Cir. 2016); *see also McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1313 (Fed. Cir. 2016) (“[C]ourts ‘must be careful to avoid oversimplifying the claims’ by looking at them generally and failing to account for the specific requirements of the claims.”) (quoting *In re TLI Commc’ns LLC Patent Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016)).

At step two, courts must “look to both the claim as a whole and the individual claim elements to determine whether the claims contain an element or combination of elements that is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the ineligible concept itself.” *McRo*, 837 F.3d at 1312 (internal brackets and quotation marks omitted). The “standard” step two inquiry includes consideration of whether claim elements

“simply recite ‘well-understood, routine, conventional activit[ies].’” *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016) (quoting *Alice*, 134 S. Ct. at 2359). “Simply appending conventional steps, specified at a high level of generality, [is] not **enough** to supply an inventive concept.” *Alice*, 134 S. Ct. at 2357 (internal quotation marks omitted; emphasis in original).

However, “[t]he inventive concept inquiry requires more than recognizing that each claim element, by itself, was known in the art.” *Bascom*, 827 F.3d at 1350. In *Bascom*, the Federal Circuit held that “the limitations of the claims, taken individually, recite generic computer, network and Internet components, none of which is inventive by itself,” but nonetheless determined that an **ordered combination** of these limitations was patent-eligible under step two. *Id.* at 1349.

The Federal Circuit recently elaborated on the step two standard, stating that “[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact. Any fact, such as this one, that is pertinent to the invalidity conclusion must be proven by clear and convincing evidence.” *Berkheimer*, 881 F.3d at 1368; *see also Aatrix*, 882 F.3d at 1128 (“While the ultimate determination of eligibility under § 101 is a question of law, like many legal questions, there can be subsidiary fact questions which must be resolved en route to the ultimate legal determination.”); *Automated Tracking*, 2018 WL 935455, at *5 (“We have held that ‘whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact.’”) (quoting *Berkheimer*, 881 F.3d at 1368).

“Whether a particular technology is well-understood, routine, and conventional goes beyond what was simply known in the prior art. The mere fact that something is disclosed in a piece of prior art, for example, does not mean it was well-understood, routine, and conventional.” *Berkheimer*, 881 F.3d at 1369; *see also Exergen*, 2018 WL 1193529, at *4 (“Something is not well-understood, routine, and conventional merely because it is disclosed in a prior art reference. There are many obscure references that nonetheless qualify as prior art.”). Still, “[w]hen there is no genuine issue of material fact regarding whether the claim element or claimed combination is well-understood, routine, [and] conventional to a skilled artisan in the relevant field, this issue can be decided on summary judgment as a matter of law.” *Id.*

As part of the step two “inventive concept” inquiry, the Federal Circuit has looked to the claims as well as the specification. *See Affinity Labs of Texas, LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016) (“*Affinity Labs II*”) (“[N]either the claim nor the specification reveals any concrete way of employing a customized user interface.”). Still, it is not enough just to disclose the improvement in the specification; instead, the Court’s task becomes to “analyze the asserted claims and determine whether they **capture these improvements**.” *Berkheimer*, 881 F.3d at 1369 (emphasis added). In other words, “[t]o save a patent at step two, an inventive concept must be **evident in the claims**.” *RecogniCorp, LLC v. Nintendo Co., Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) (emphasis added); *see also Alice*, 134 S. Ct. at 2357 (“[W]e must examine the **elements of the claim** to determine whether it contains an ‘inventive concept.’”) (emphasis added); *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1149 (Fed. Cir. 2016) (“The § 101 inquiry must focus on the language of the Asserted Claims themselves.”).

At both steps one and two, it is often useful for the Court to compare the claims at issue

with claims that have been considered in the now considerably large body of decisions applying § 101. *See Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016).

Finally, as a procedural matter, the Federal Circuit has observed frequently that § 101 disputes may be amenable to resolution on motions for judgment on the pleadings, motions to dismiss, or summary judgment. *See, e.g., Berkheimer*, 881 F.3d at 1368 (“Whether a claim recites patent eligible subject matter is a question of law which may contain disputes over underlying facts. Patent eligibility has in many cases been ***resolved on motions to dismiss or summary judgment. Nothing in this decision should be viewed as casting doubt on the propriety of those cases.*** When there is no genuine issue of material fact regarding whether the claim element or claimed combination is well-understood, routine, conventional to a skilled artisan in the relevant field, this issue can be decided on summary judgment as a matter of law.”) (emphasis added); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1351-52 (Fed. Cir. 2014) (affirming grant of Rule 12(c) motion for judgment on pleadings for lack of patentable subject matter); *Intellectual Ventures I LLC v. Symantec Corp.*, 2018 WL 1324863, at *1 n.1 (Fed. Cir. Mar. 15, 2018) (affirming grant of summary judgment of patent ineligibility and stating *Berkheimer* “does not compel a different conclusion”).

III. DISCUSSION

LinkedIn contends that the claims of the ’760 patent are ineligible under § 101 because they are directed to the abstract idea of facilitating cross-marketing relationships and fail to add any inventive concept, even when considered as an ordered combination. (*See* D.I. 13 at 5; *see also* Tr. at 15-16) DiStefano responds that the patent recites non-abstract, particularized methods of web design and hosting that improve “an already computerized field of web page

development,” making web development “easier for everyone,” including those with and without technical knowledge. (Tr. at 26-28) DiStefano further contends that the ordered combination of the claim elements recites an inventive concept. (See D.I. 16 at 1, 7, 13-14) The Court addresses each argument in turn.

A. Step One

At step one of the *Alice/Mayo* test, the question is whether the asserted claims are directed to a patent-ineligible concept. “[A]ll inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 132 S. Ct. at 1293. Thus, “an invention is not rendered ineligible for patent simply because it involves” a patent-ineligible concept. *Alice*, 134 S. Ct. at 2354. “Indeed, to preclude the patenting of an invention simply because it touches on something natural would ‘eviscerate patent law.’” *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1050 (Fed Cir. 2016) (quoting *Mayo*, 132 S. Ct. at 1293). “At step one, therefore, it is not enough to merely identify a patent-ineligible concept underlying the claim; we must determine whether that patent-ineligible concept is what the claim is ‘directed to.’” *Id.*

Here, the Court agrees with LinkedIn that the asserted claims of the ’760 patent are directed to the abstract idea of facilitating cross-marketing relationships. In broad terms, the method of claim 1 comprises two users on two computers opting into a reciprocal linking arrangement and then, through use of a computer database, establishing the reciprocal linking arrangements between the two users such that a link to the first page appears on the second and a link to the second page appears on the first. See ’760 pat. at cl. 1. As LinkedIn explains, this method “is not essentially different from reciprocal marketing relationships formed between two

brick and mortar stores selling complementary products.” (D.I. 13 at 6) Rather than improving any technical problem in the prior art, the patent “relate[s] to . . . marketing problems or dealing with the hassle of matchmaking.” (Tr. at 12; *see also* ’760 Pat. at 4:20-25 (“The present invention further relates to an internet-based system for assisting a website designer . . . in order to market the first website at the second website.”); Tr. at 18 (“[I]t may be difficult for novice web designers to arrange those relationships; but those aren’t technical problems, those are marketing problems.”); *id.* at 19 (“[A]voiding the hassle of having to interact with the web designer also is not a technical problem.”))

DiStefano contends that LinkedIn oversimplifies the invention because the claims teach “transport[ing] the user instantly to the linked website,” an invention not (at least yet) realistic in the real-world because the third-party agent would have to “port the physical storefronts . . . *into* its own establishment.” (D.I. 16 at 8-9) But simply because the invention has no direct physical corollary does not render the claims patent-eligible, as DiStefano acknowledges. (Tr. at 30-31)³

In *Alice*, the Supreme Court found claims directed to a method of “facilitat[ing] the exchange of financial obligations between two parties by using a computer system as a third-party intermediary” unpatentable. *Alice*, 134 S. Ct. at 2352; *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (finding patent claims directed to contractual relationship for “a fundamental economic practice long prevalent in our system of commerce”). The claims at issue here similarly recite a method of facilitating relationships between two parties through a computer system intermediary. This common marketing tactic does not become patent-eligible simply

³Moreover, there *is* a corollary to the ’760 patent in the physical world: seeing an advertisement at one storefront for a second storefront and then visiting the second storefront via any mode of transportation (albeit not instantly).

through computer implementation. *See Alice*, 134 S. Ct. at 2357 (“[M]erely requiring generic computer implementation fails to transform that abstract idea into a patent-eligible invention.”); *see also buySAFE*, 765 F.3d at 1355 (“The claims are squarely about creating a contractual relationship [and their] invocation of computers adds no inventive concept.”); *VideoShare, LLC v. Google, Inc.*, 2016 WL 4137524, at *6 (D. Del. Aug. 2, 2016), *aff’d*, 695 F. App’x 577 (Fed. Cir. 2017) (“[C]laims overcom[ing] the burden of manually posting a link associated with a video to a web page by automating this process [are directed to an abstract idea because they] are not directed to an improvement in computer functionality, and the physical components of the claim merely provide a generic environment for carrying out the abstract idea.”).

Accordingly, the Court finds the asserted patent claims abstract under *Alice* step one.⁴

B. Step Two

At step two, the Court looks at “the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355; *see also Mayo*, 566 U.S. at 73 (explaining that steps of claim must amount to more than “well-understood, routine, conventional activity”). “To save a patent at step two, an inventive concept must be *evident in*

⁴LinkedIn submitted a notice of subsequent authority on September 14, pursuant to D. Del. LR 7.2(b), directing the Court to a recent “Final Rejection of certain claims in United States Patent Application No. 13/946,461,” which claims priority to the same patent application and inventor as the ’760 patent and shares many similarities. (D.I. 26) This is relevant, LinkedIn argues, because claims in this recent application were rejected under 35 U.S.C. § 101. (*Id.*) In response, DiStefano argues that “[t]he cited examiner arguments can be overcome by subsequent arguments or amendments submitted by the applicant, and are not the type of authority properly submitted pursuant to Local Rule 7.1.2(b).” (D.I. 27 at 1-2) The subsequent authority has played no part in the Court’s conclusion that the asserted claims of the ’760 patent are ineligible under Section 101.

the claims.” *RecogniCorp*, 855 F.3d at 1327 (emphasis added); *Alice*, 134 S.Ct. at 2357 (“[W]e must examine the *elements of the claim* to determine whether it contains an ‘inventive concept.’”) (emphasis added).

Claim 1 is directed to the method of facilitating cross-linking relationships by establishing reciprocal arrangements. Not only does the specification acknowledge that using reciprocal links on web pages was “very common” in the prior art, *see* ’760 Pat. at 2:43-49; *see also id.* at 5:52-54 (“[T]he preferred system . . . includes a server computer . . . operably connected to the internet . . . using standard techniques well-known in the art.”), but, more importantly, the claims are silent as to any manner in which the improvement actually functions and instead, only claim the desired result. *See* ’760 Pat. at cl. 1 (claiming method steps of “receiving . . . a first [or second] indication to opt into a reciprocal linking arrangement,” “establishing, within a database . . . the reciprocal linking arrangement” based on the users opting in, and “including . . . a first [or second] functional identification element” within each web page). Nowhere do the claims (or specification) explain how opt-ins are received, how the database works or what type of database is actually used, or how links and identification elements are created or added to the web pages.

Similarly, while the specification recognizes that creating such links in the prior art was “not always easy” and could be difficult without contractual arrangements, *see id.* at 3:49-54, the claims do not explain how the claimed system makes the creation of links any easier. Instead, the claims broadly direct that users opt into using the system and then the system establishes the linking arrangement. These conventional steps of opting into a reciprocal linking arrangement, establishing the reciprocal linking arrangement in a computer database, and including links on the reciprocal web pages, considered alone or as an ordered combination, fail to render the claims

patent-eligible. *See buySAFE*, 765 F.3d at 1355 (finding claims directed to “familiar commercial arrangements by use of computers and networks” ineligible for patenting).

DiStefano contends a factual dispute exists regarding whether the ordered combination of steps is routine and conventional, but given its multiple concessions during oral argument – including that the method involves all conventional elements present in the prior art and that the claimed method is simply an automation of already-established steps – and its failure to identify any reason to find the ordered combination non-routine, the Court sees no reason to conclude that the method steps, considered alone or in combination, are anything but routine and conventional. (*See* Tr. at 40 (“The patent concedes that all of the individual components, at least those that are at issue here, are conventional components. There is no doubt about that. We don’t contest it.”); *id.* at 47 (“[C]reating reciprocal links on web pages’ was well known in the prior art.”); *id.* at 48 (“[P]rior art processes accomplish the same result.”))⁵

Finally, DiStefano contends factual allegations in the First Amended Complaint support the finding of an inventive concept. (*See* Tr. at 36-37; D.I. 16 at 10-11) The First Amended Complaint alleges that the claims of the ’760 patent “resolve technical problems related to a streamlined process for developing web pages and posting those web pages on the internet.” (D.I. 11 at 3) As addressed earlier, however, the asserted claims do not describe with any detail how to create web pages or create links on a web page, or provide any details surrounding the database associated with the computer hardware system. The remaining relevant allegations in the First Amended Complaint broadly assert that the claims “recite one or more inventive

⁵During oral argument, DiStefano conceded that no claim construction disputes preclude the Court’s ruling on LinkedIn’s motion. (*See* Tr. at 49-50) (“[T]he real heart of the issue here is not one of claim construction.”)

concepts” and “recite an invention that is not merely routine or conventional [and] does not preempt all ways of . . . establish[ing] reciprocal linking arrangements between web pages.” (*Id.*) Each of these allegations, however, merely recites a boilerplate legal conclusion without any supporting facts in the remaining sections of the complaint, in the specification, or in the claims.⁶

IV. CONCLUSION

For the reasons stated above, the Court will grant LinkedIn’s motion to dismiss. An order follows.

⁶While DiStefano faults LinkedIn for failing to separately address preemption (*see* D.I. 16 at 11), Federal Circuit precedent explains that “where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Alice* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 879 F.3d 1329, 1339 (Fed. Cir. 2017).

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DISTEFANO PATENT TRUST III, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 17-1798-LPS-CJB
	:	
LINKEDIN CORPORATION,	:	
	:	
Defendant.	:	
	:	

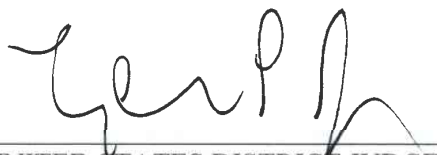
ORDER

At Wilmington this **28th** day of **September, 2018**:

For the reasons stated in the Memorandum Order issued this same date,

IT IS HEREBY ORDERED that:

1. LinkedIn's motion to dismiss (D.I. 12) is **GRANTED**.
2. The parties shall meet and confer and, no later than October 5, 2018, submit a joint status report providing the Court with their position(s) as to how this case should now proceed.


 UNITED STATES DISTRICT JUDGE

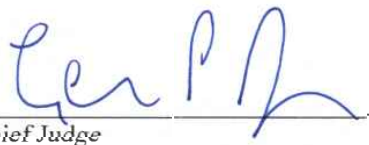
APPX016

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DISTEFANO PATENT TRUST III, LLC,)
)
Plaintiff,)
)
v.) C.A. No. 17-1798 (LPS) (CJB)
)
LINKEDIN CORPORATION,)
)
Defendant.)

JUDGMENT

For the reasons stated in the Court's September 28, 2018 Memorandum Opinion (D.I. 28), judgment of invalidity of United States Patent No. 8,768,760 is hereby entered in favor of defendant LinkedIn Corporation and against Plaintiff DiStefano Patent Trust III, LLC for failure to claim patent-eligible subject matter under 35 U.S.C. § 101.



Chief Judge

Dated: October 17, 2018

APPX017

(12) **United States Patent**
Distefano

(10) **Patent No.: US 8,768,760 B1**
(45) **Date of Patent: *Jul. 1, 2014**

(54) **RECIPROCAL LINKING ARRANGEMENT
BETWEEN WEB PAGES**

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(72) Inventor: **Thomas L. Distefano**, Boca Raton, FL
(US)

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(*) Notice: Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
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Related U.S. Application Data

(63) Continuation of application No. 13/763,128, filed on
Feb. 8, 2013, which is a continuation of application
No. 13/669,027, filed on Nov. 5, 2012, now Pat. No.
8,423,399, which is a continuation of application No.
13/206,483, filed on Aug. 9, 2011, now Pat. No.
8,335,713, which is a continuation of application No.
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7,996,259.

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LLC

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G06Q 30/00 (2012.01)
G06F 17/22 (2006.01)
G06Q 30/02 (2012.01)

(52) **U.S. Cl.**

CPC **G06F 17/2235** (2013.01); **G06Q 30/0277**
(2013.01)
USPC **705/14.1**

(58) **Field of Classification Search**

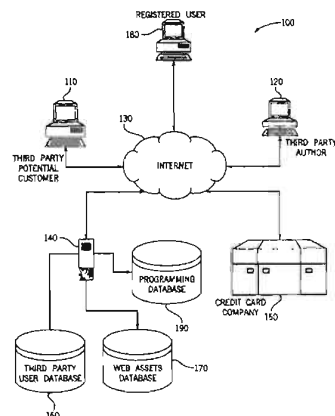
CPC **G06Q 90/00**
USPC **705/14.1**
See application file for complete search history.

(57)

ABSTRACT

A method, within and by a computer hardware system configured to serve a first web page associated with a first user and a second web page associated with a second user includes the following. A first indication to opt into a reciprocal linking arrangement is received from a first computer associated with the first user. A second indication to opt into the reciprocal linking arrangement is received from a second computer associated with the second user. The reciprocal linking arrangement is established based upon both the first and second users opting to participate in the reciprocal linking arrangement. Based upon the reciprocal linking arrangement, second and first functional identification elements, respectively associated with the first and second entities, are respectively included within the second and first web pages. The reciprocal linking arrangement is established within a database associated with the computer hardware system.

20 Claims, 29 Drawing Sheets



APPX023

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APPX024

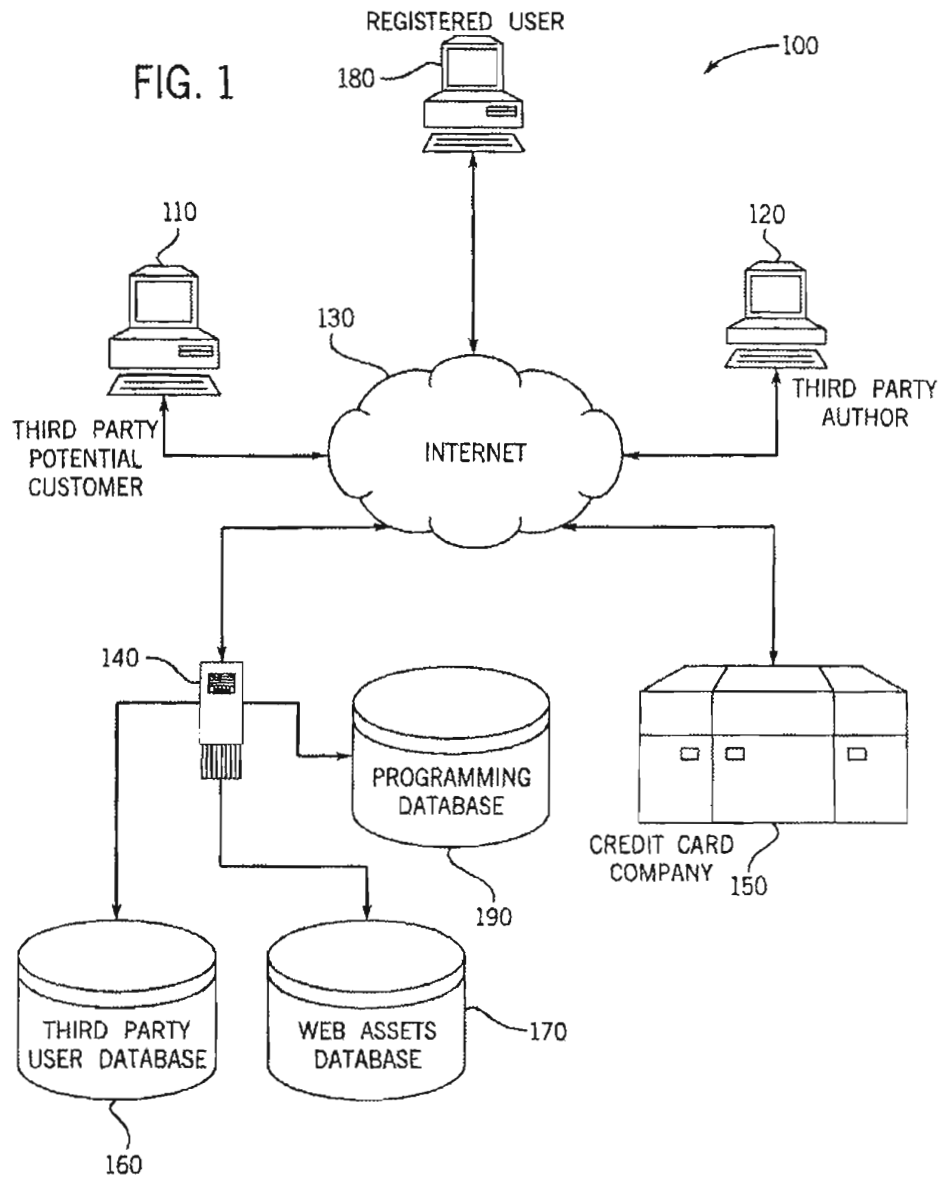
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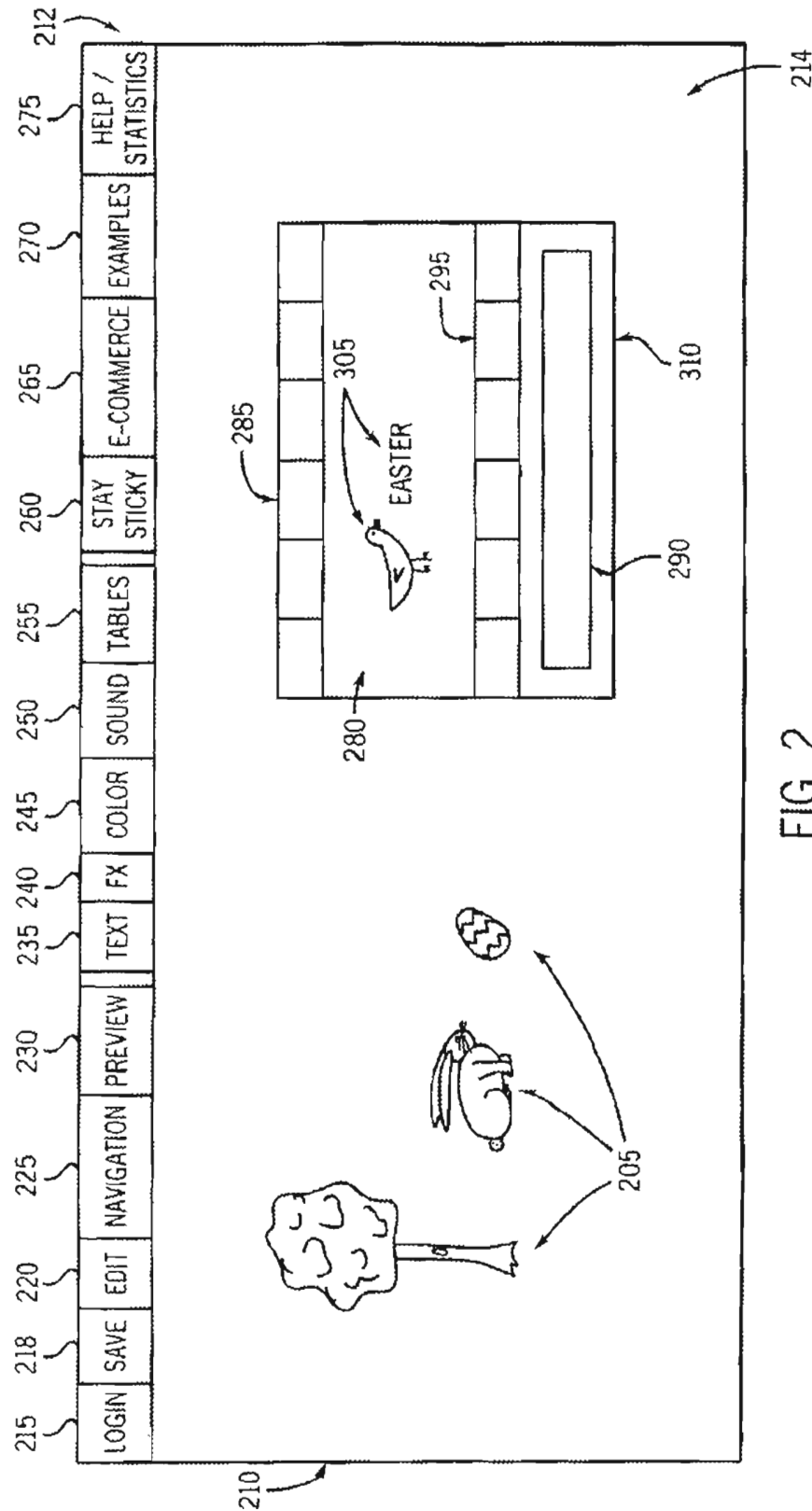
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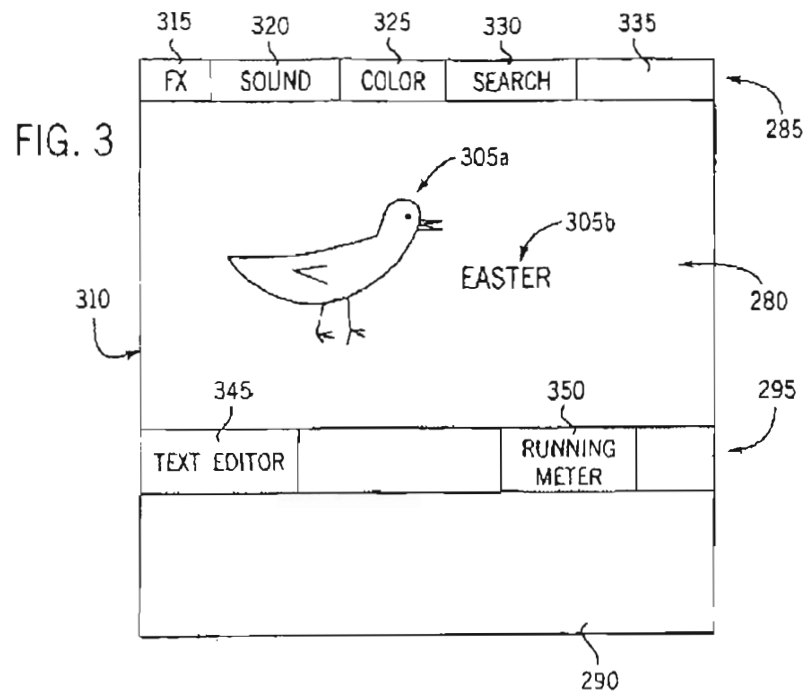


U.S. Patent

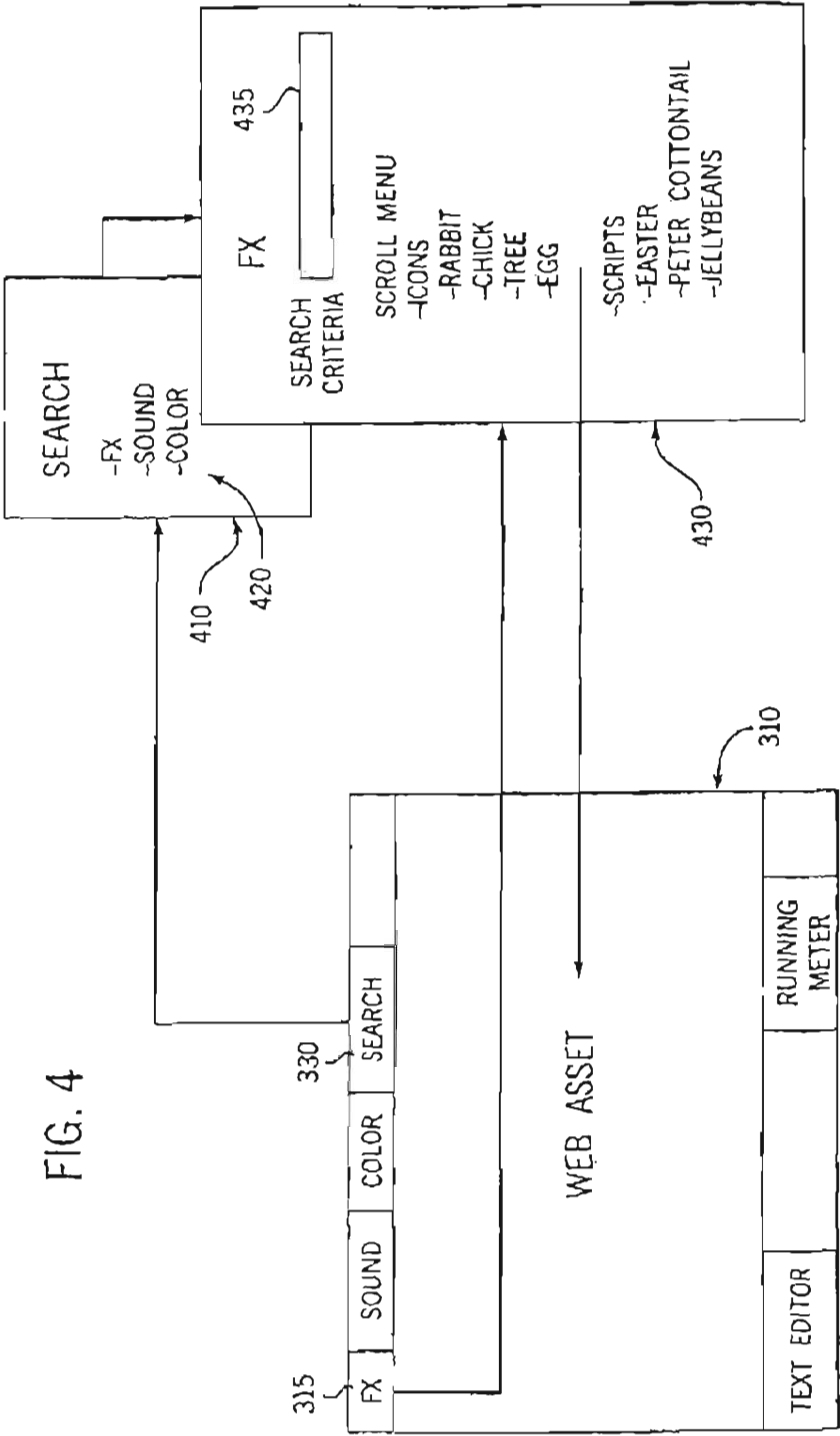
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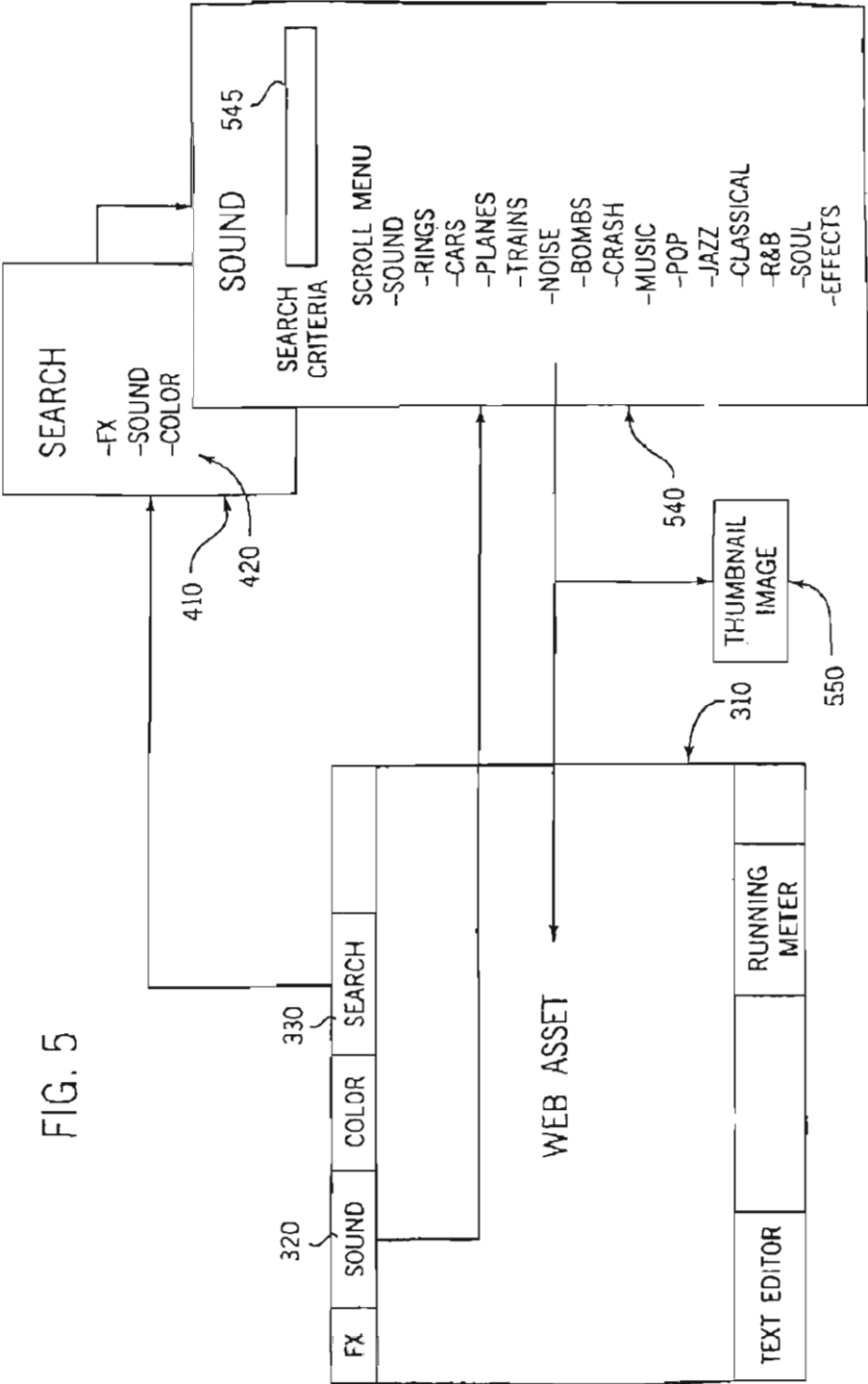
Sheet 3 of 29

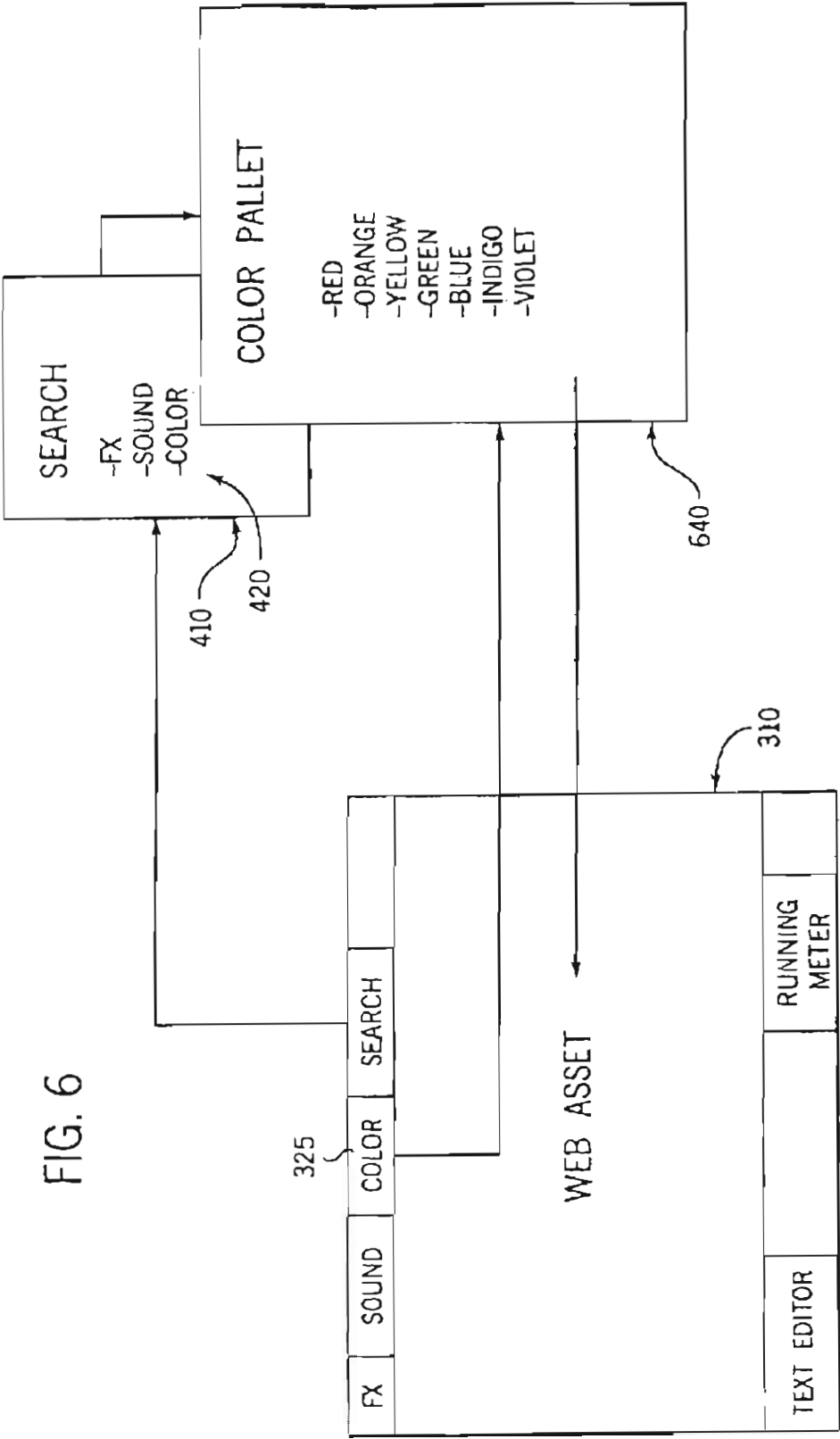
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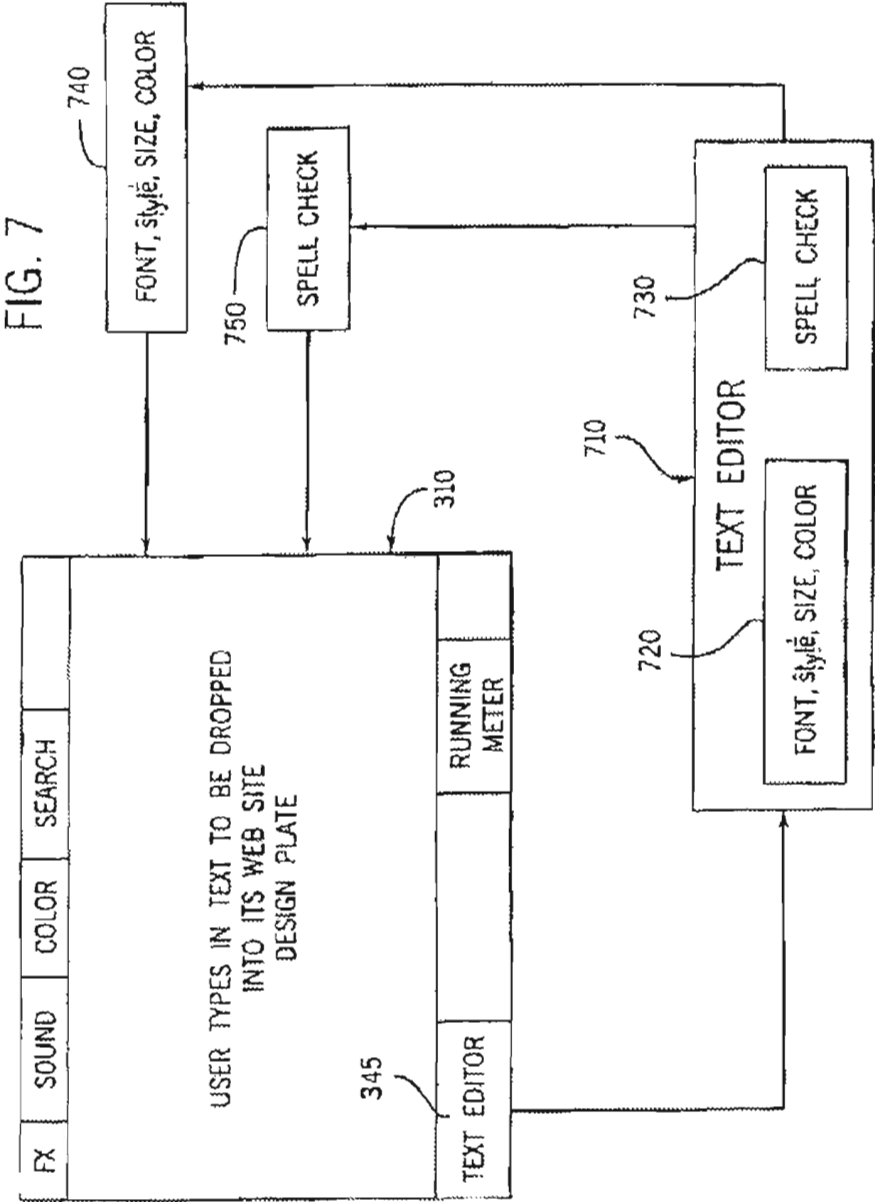


APPX027







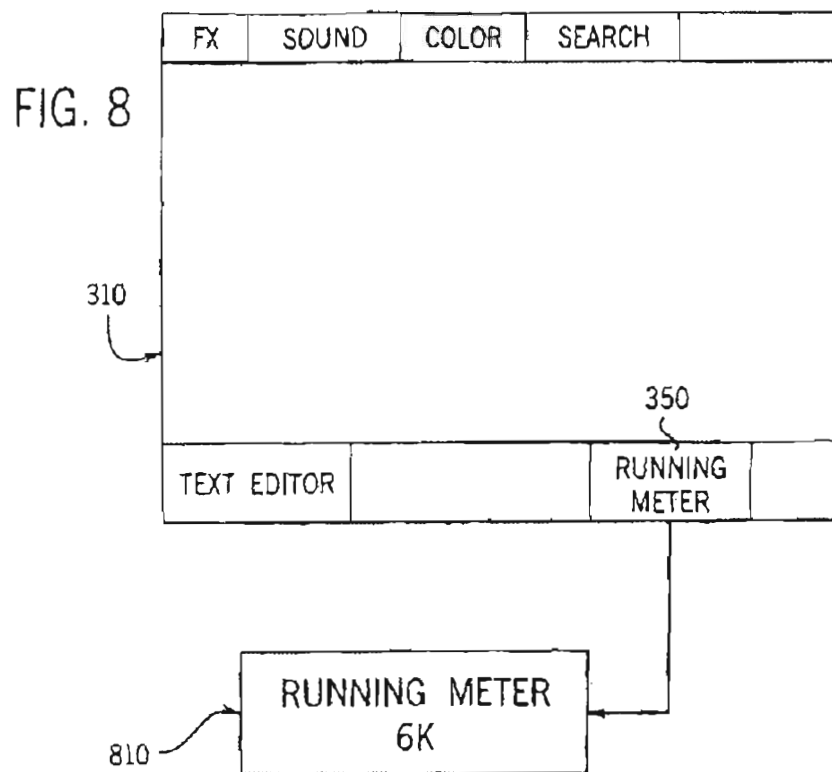


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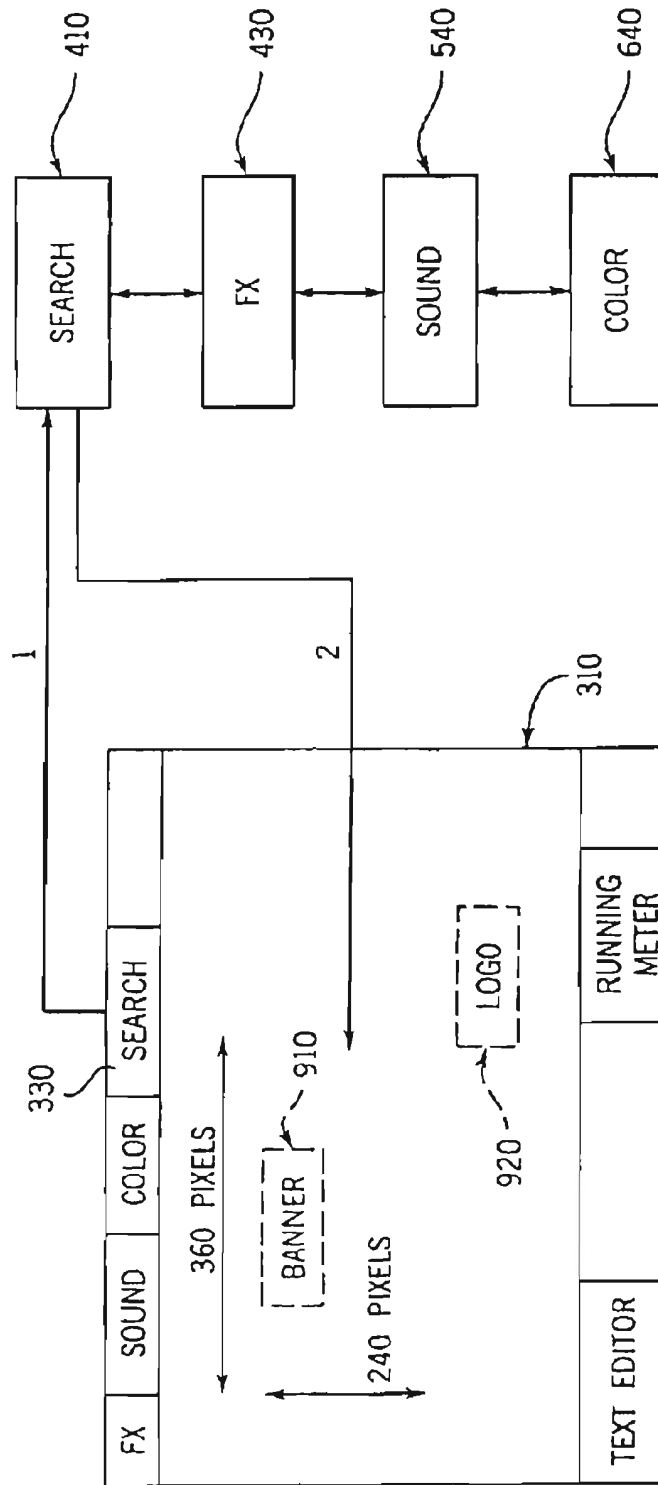
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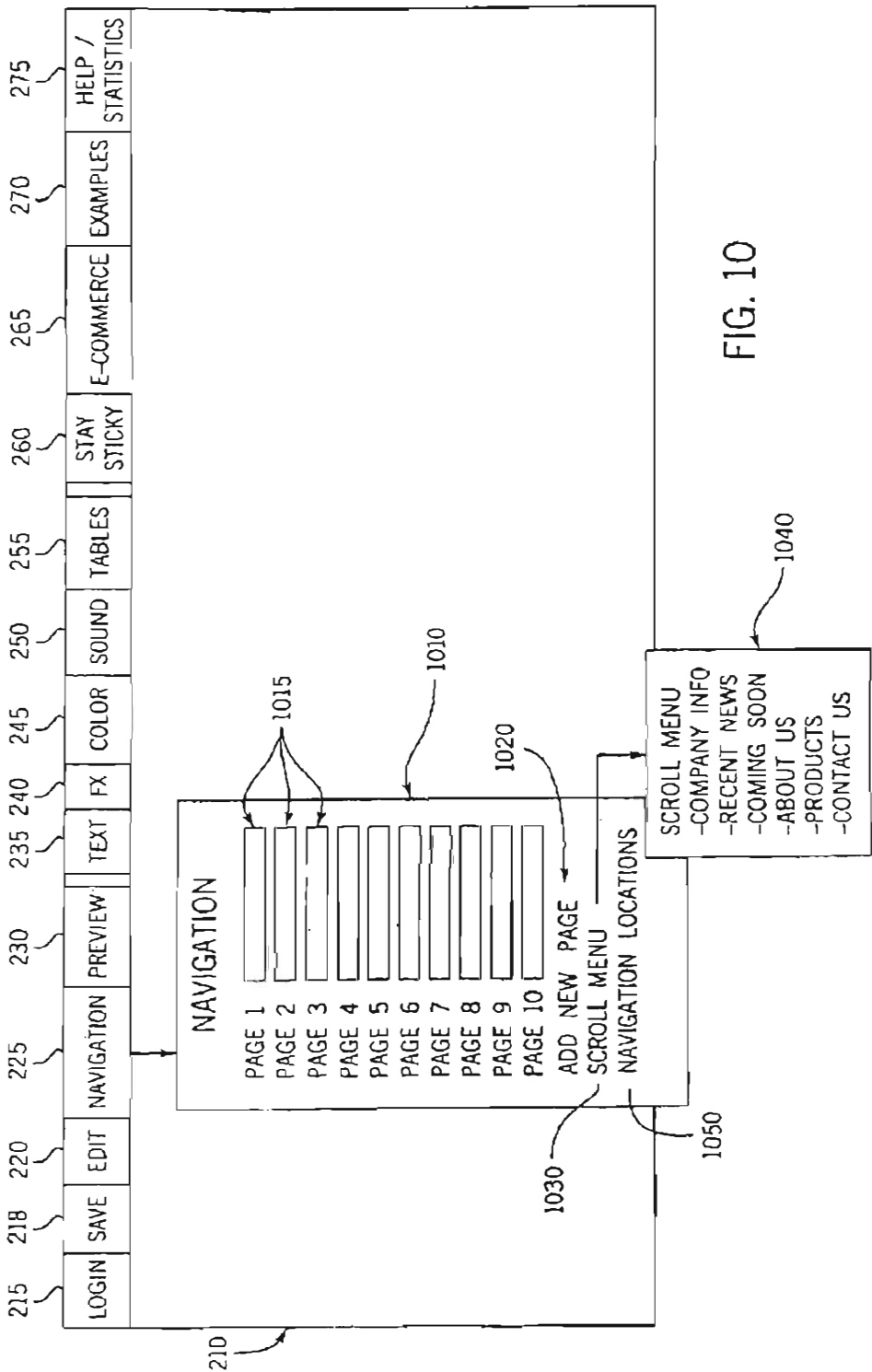
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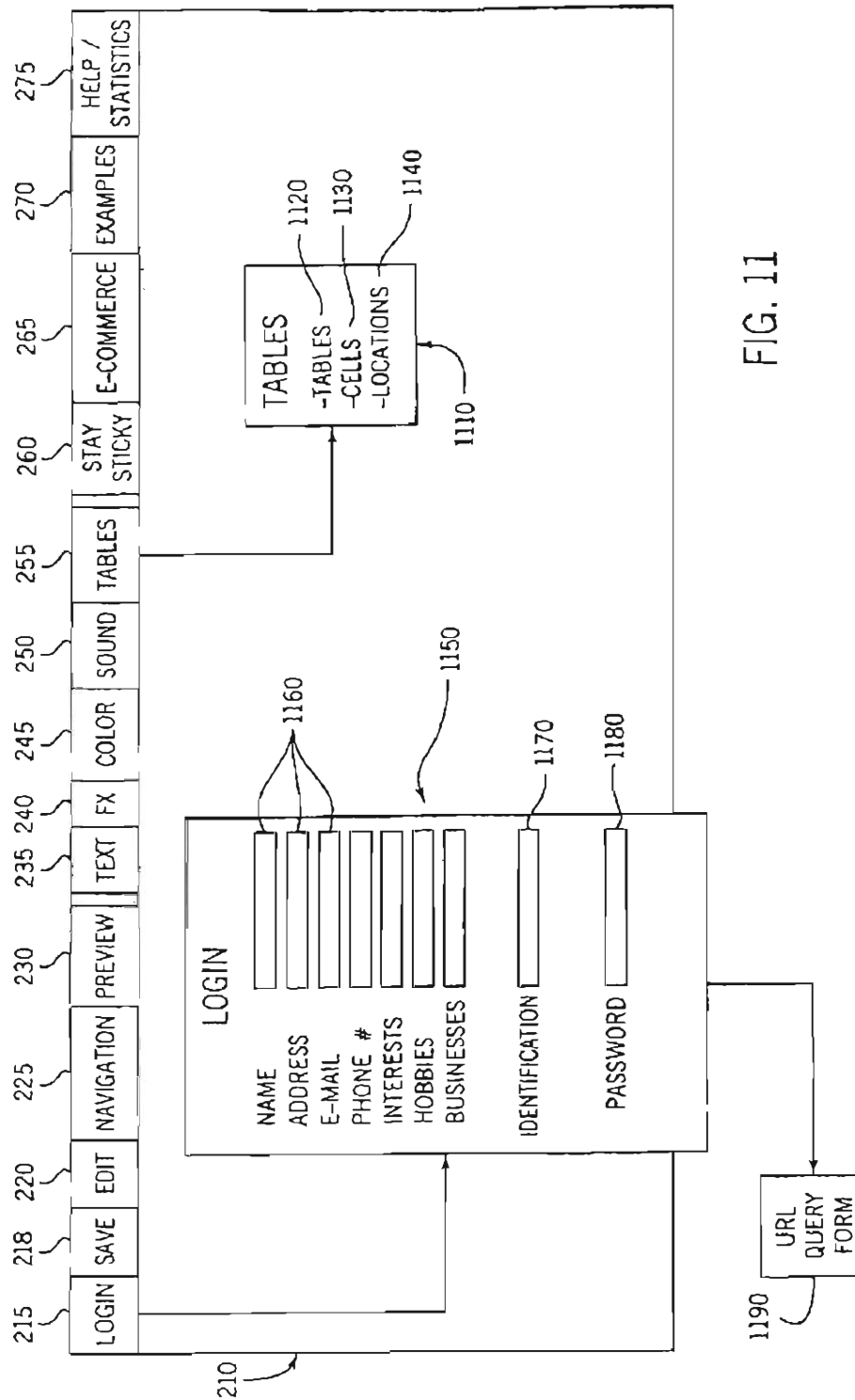


APPX032

Fig. 9







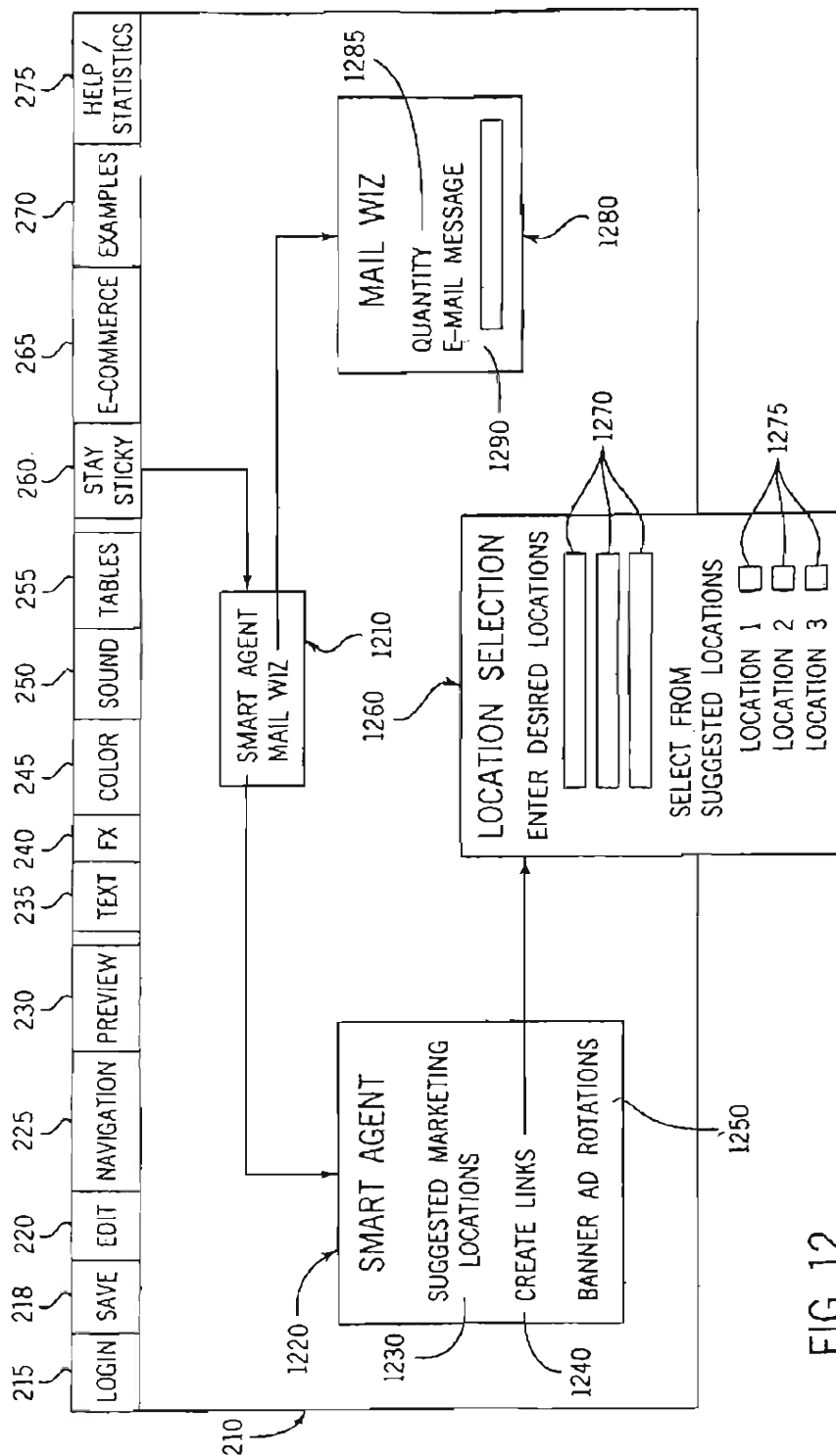
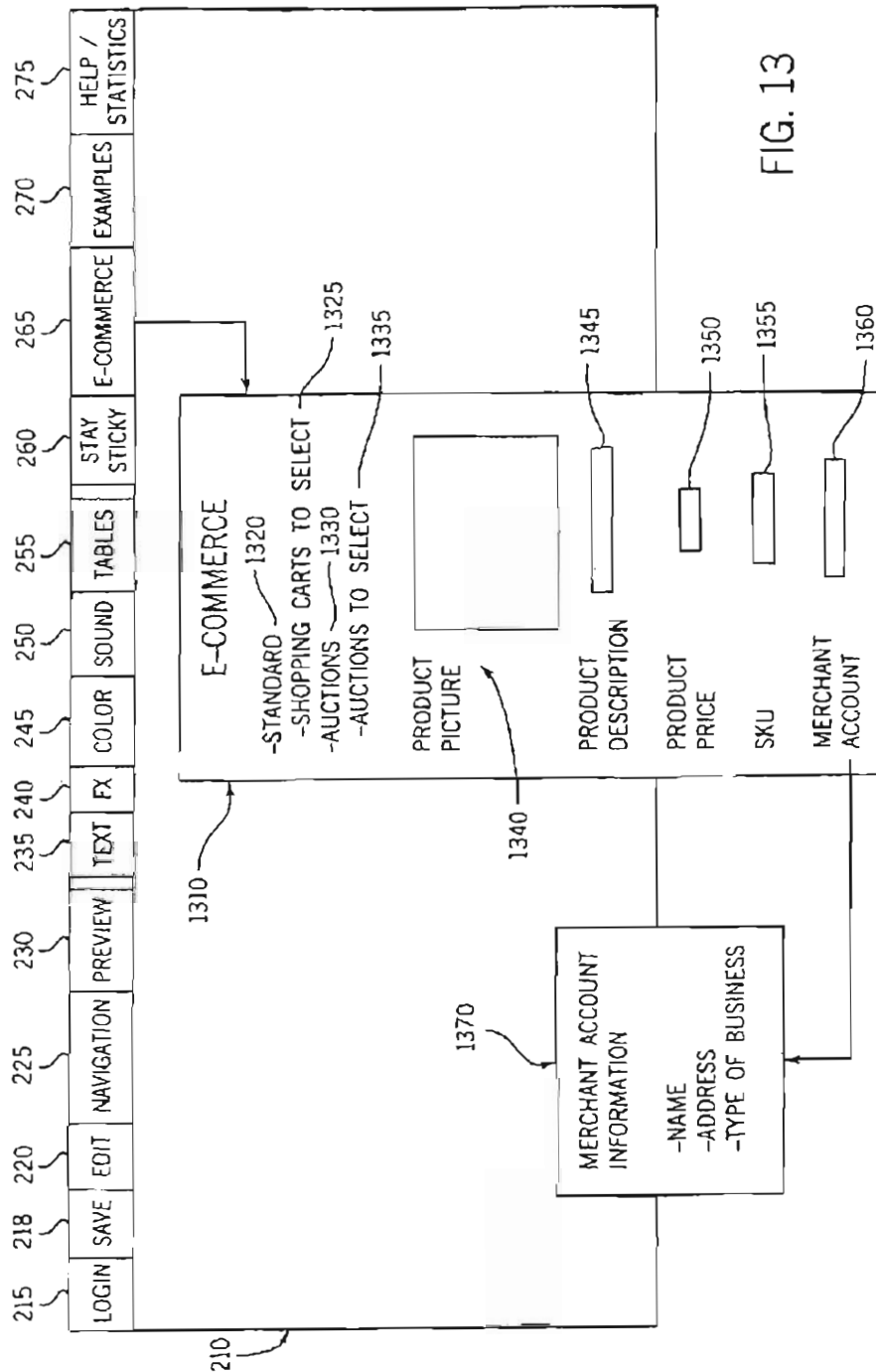
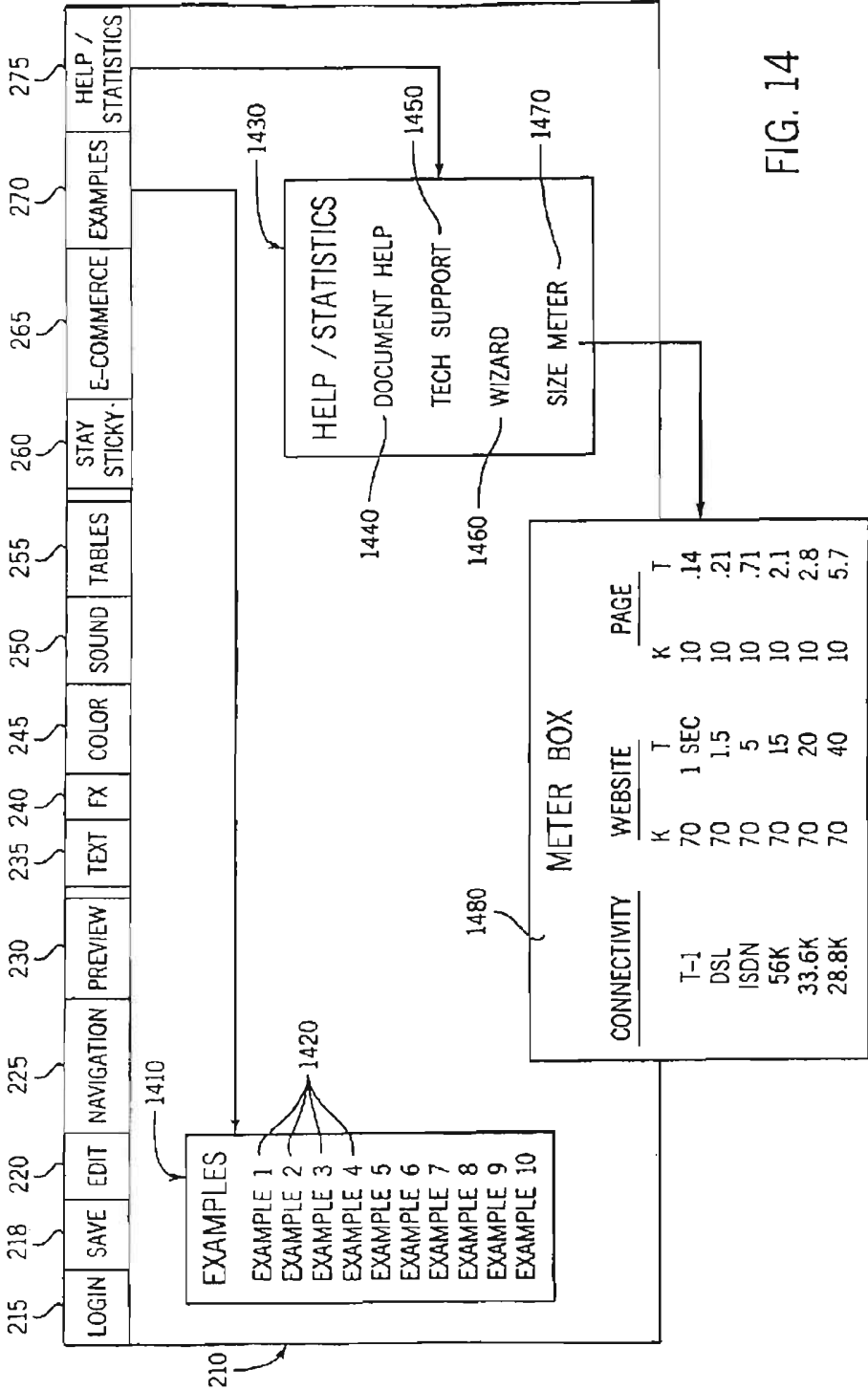


FIG. 12





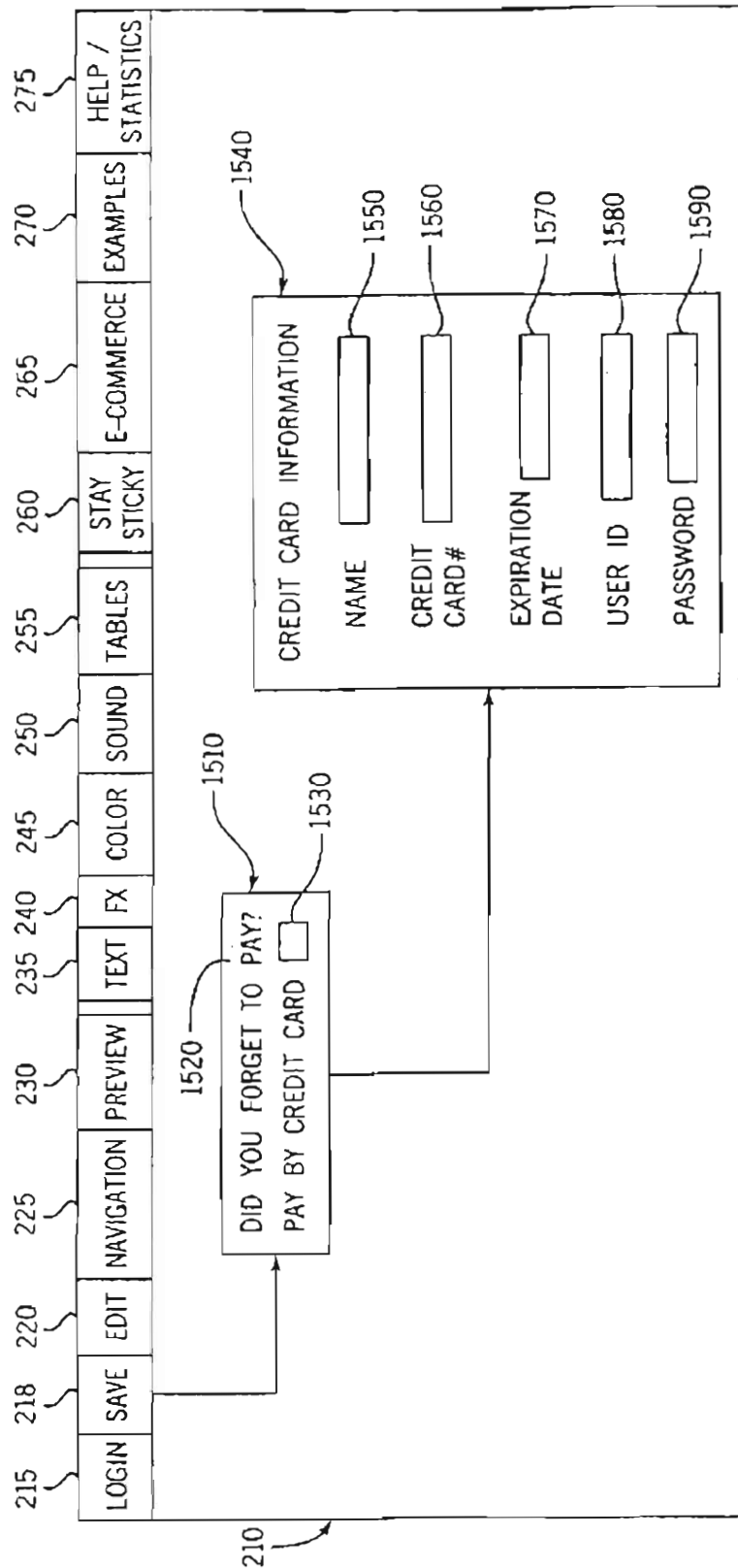
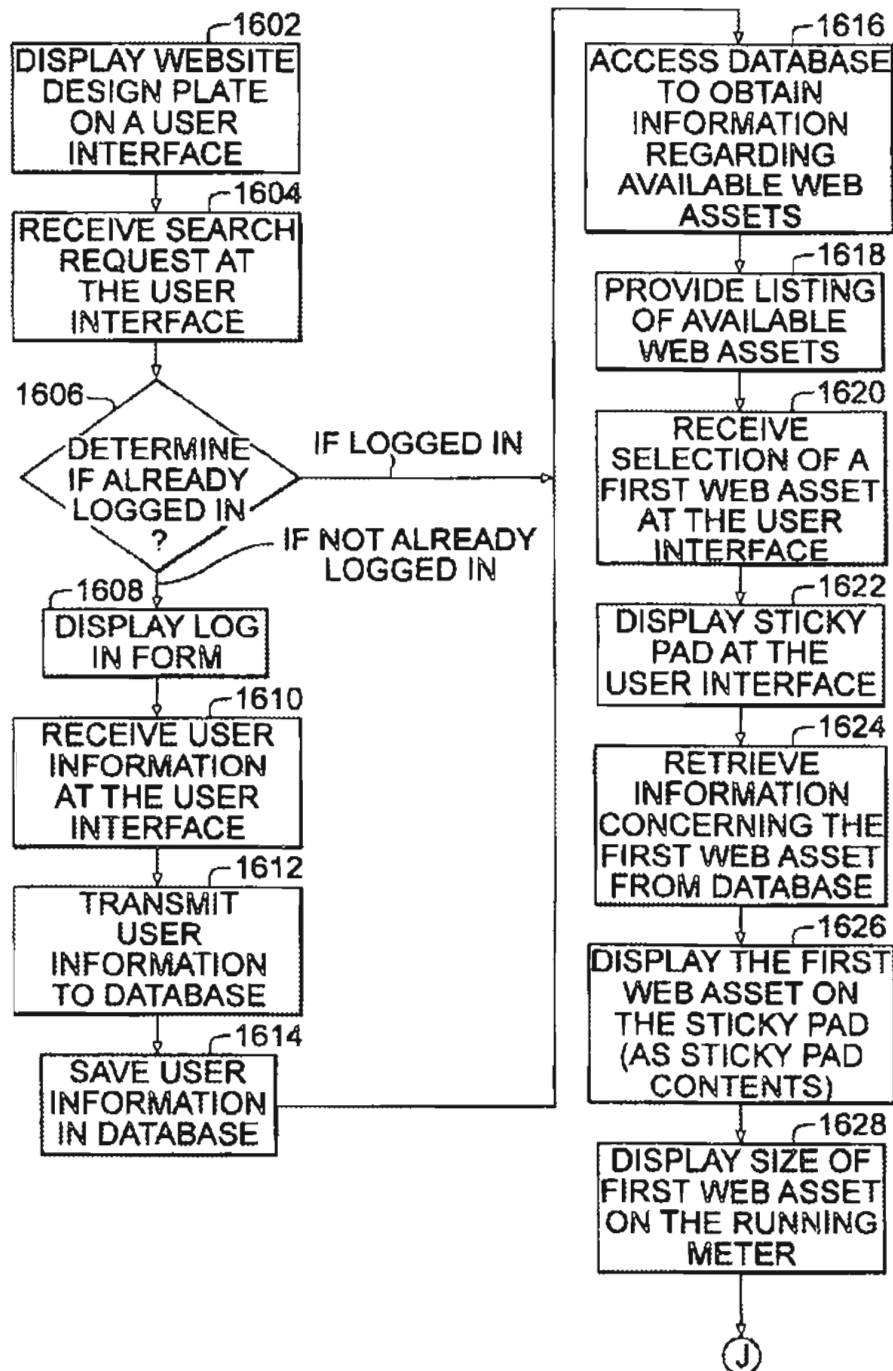
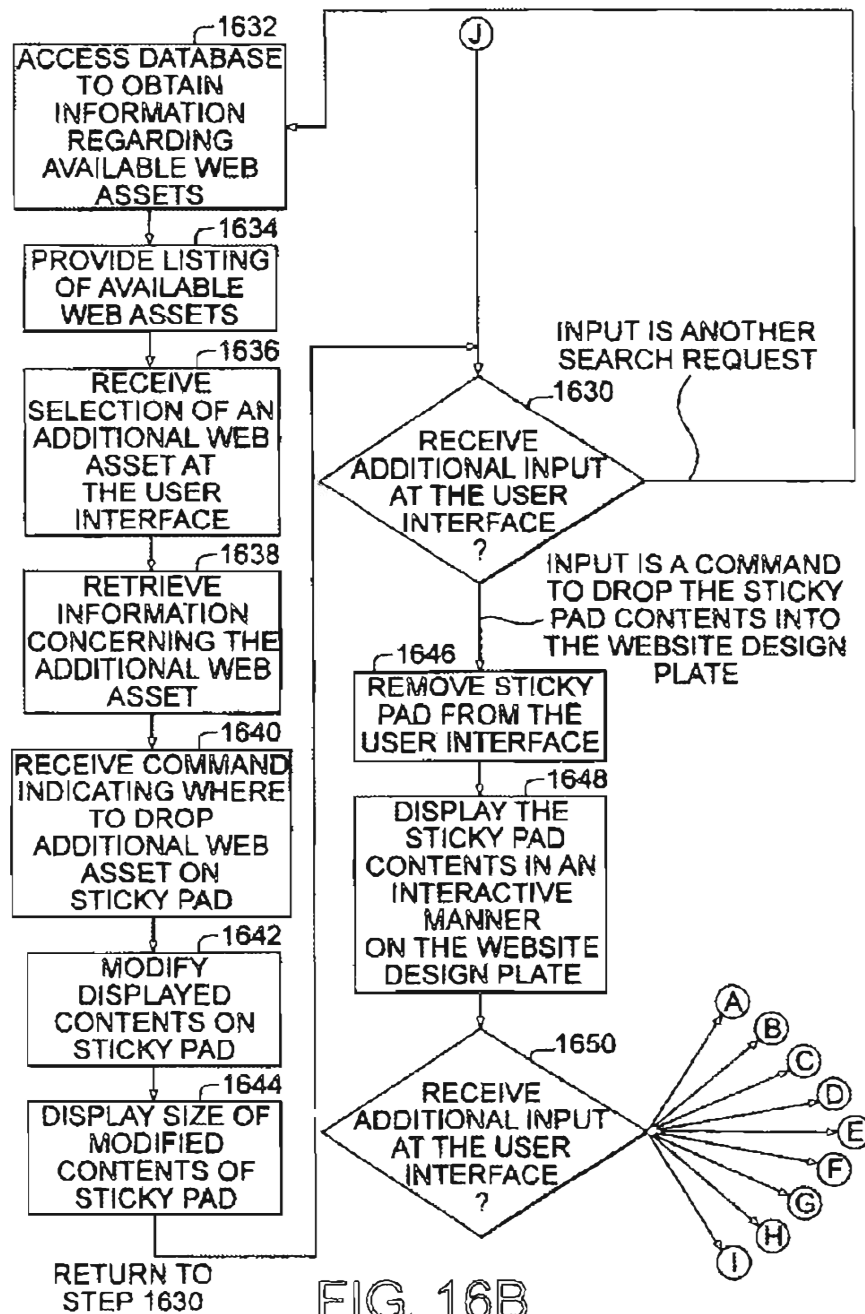


FIG. 15

FIG. 16A





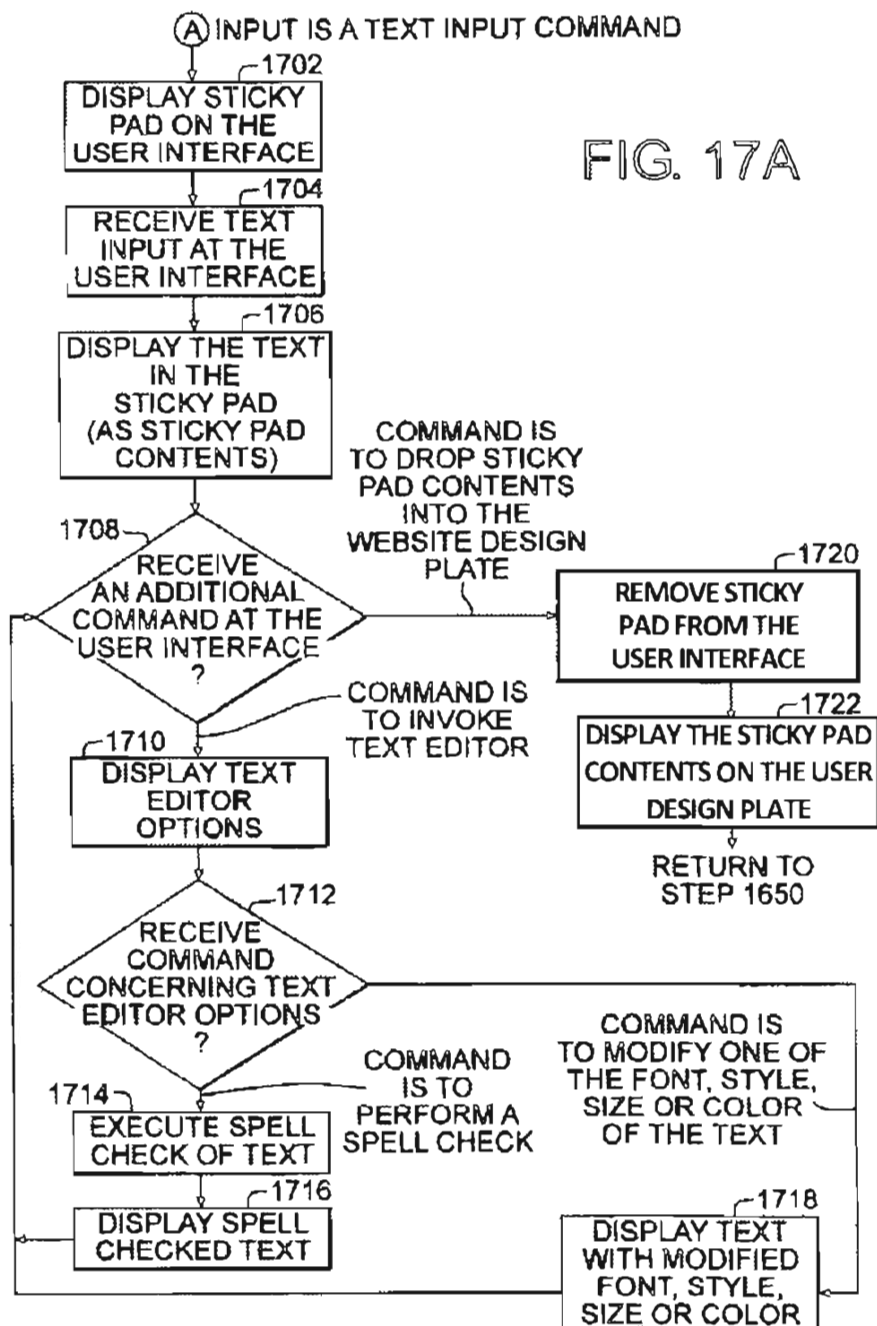
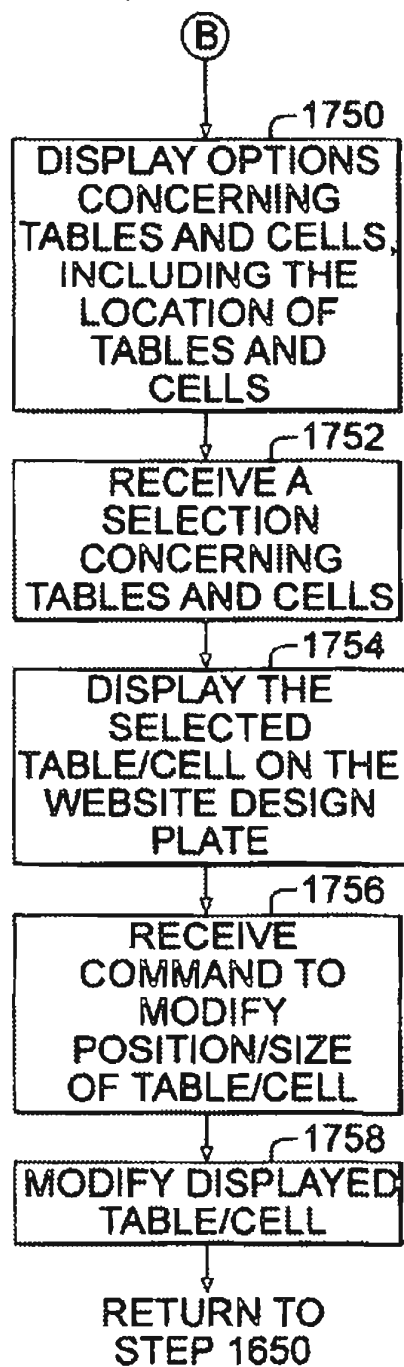


FIG. 17B

INPUT IS A REQUEST FOR TABLE/CELL



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FIG. 18A

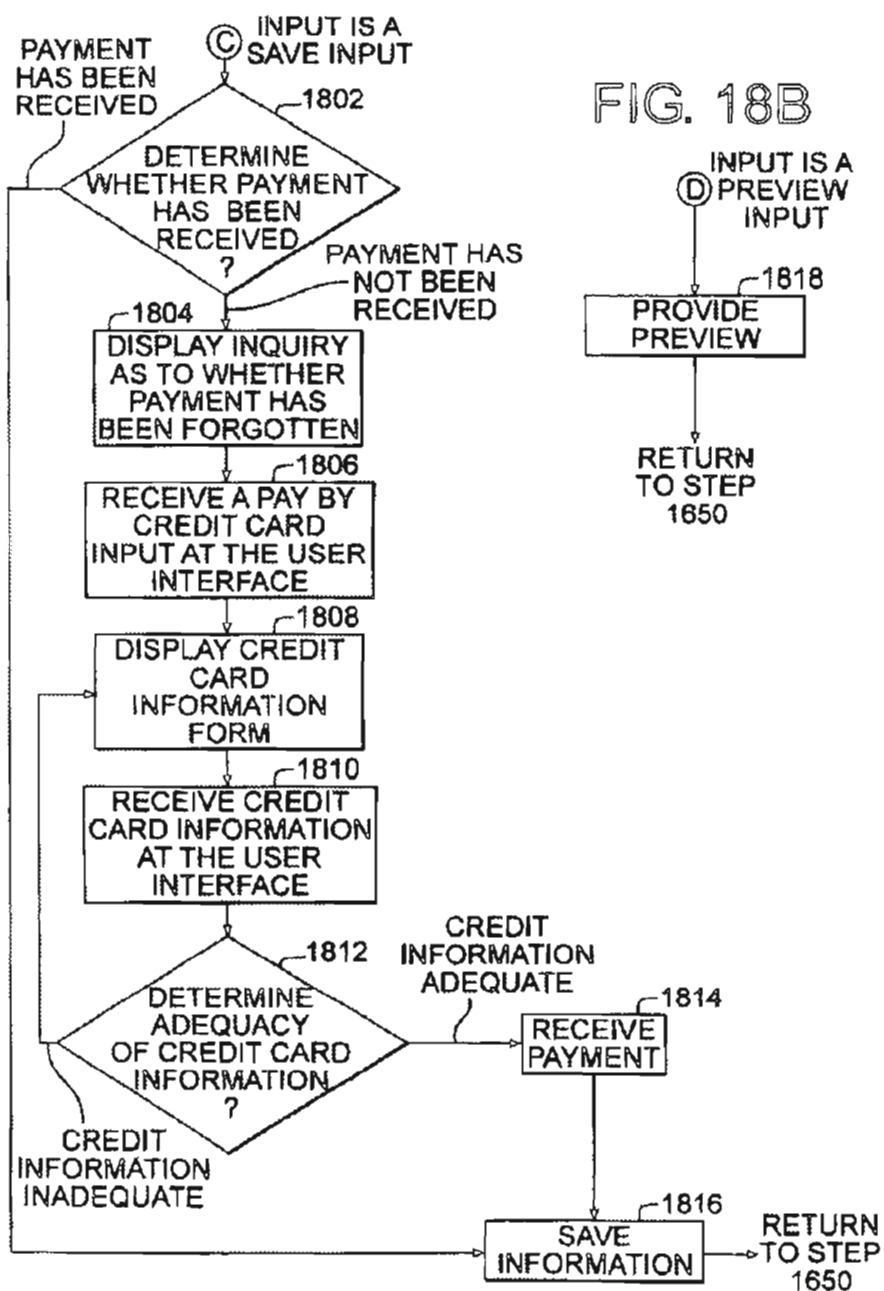
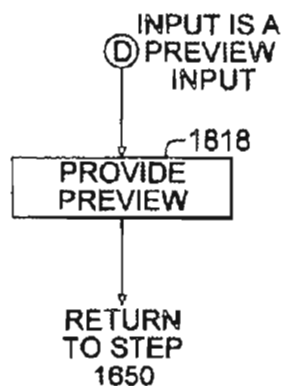
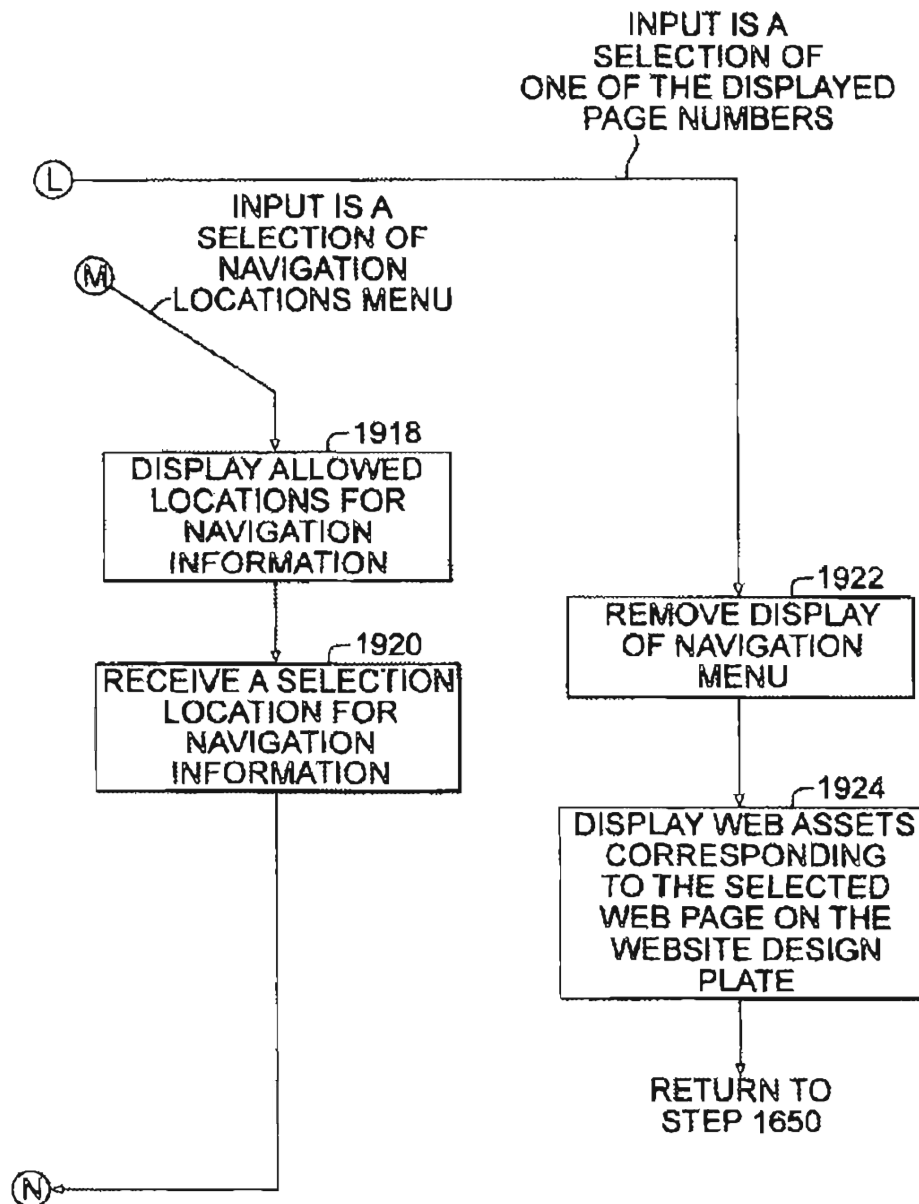


FIG. 18B



APPX044

FIG. 19B



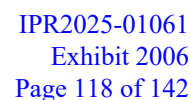
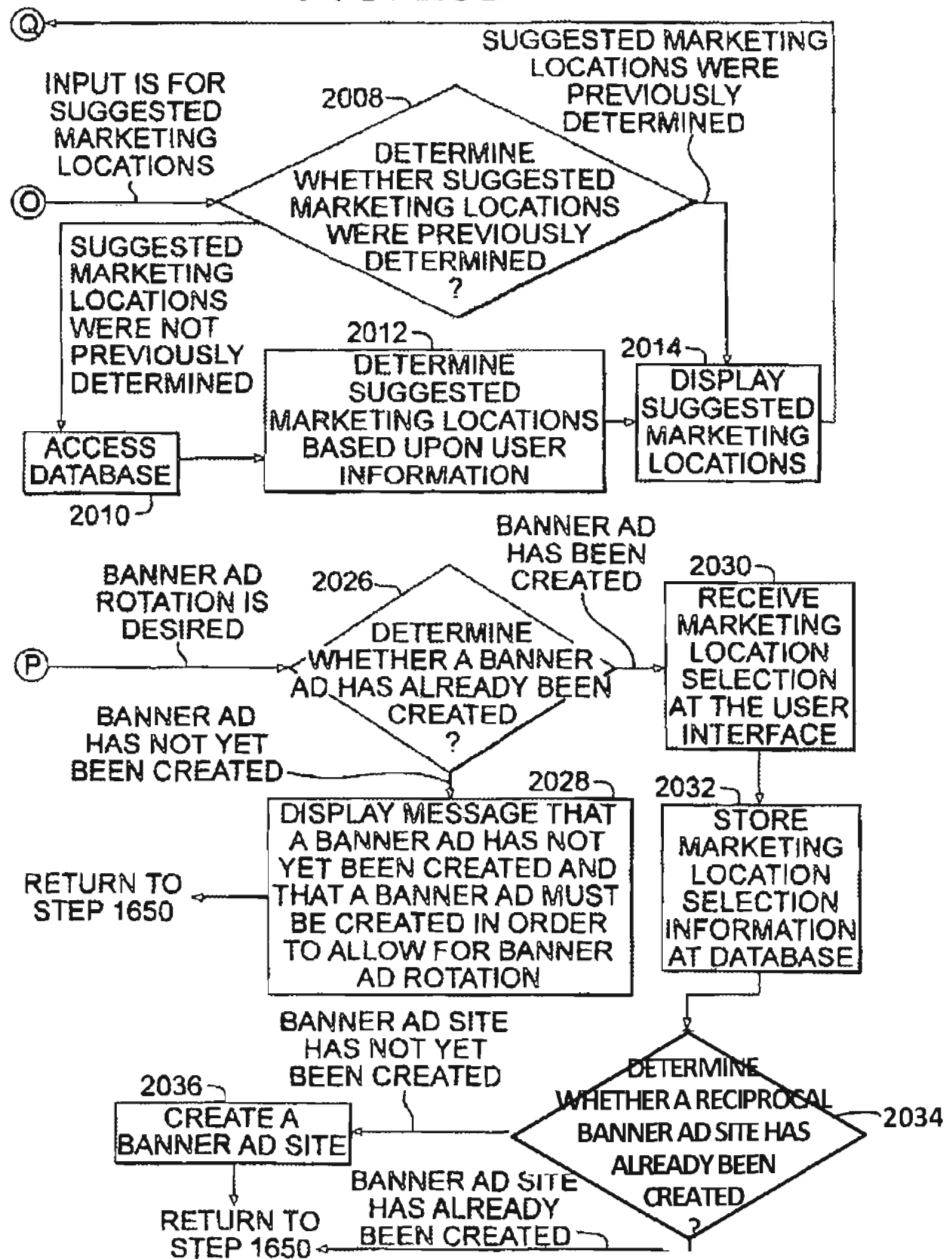


FIG. 20B

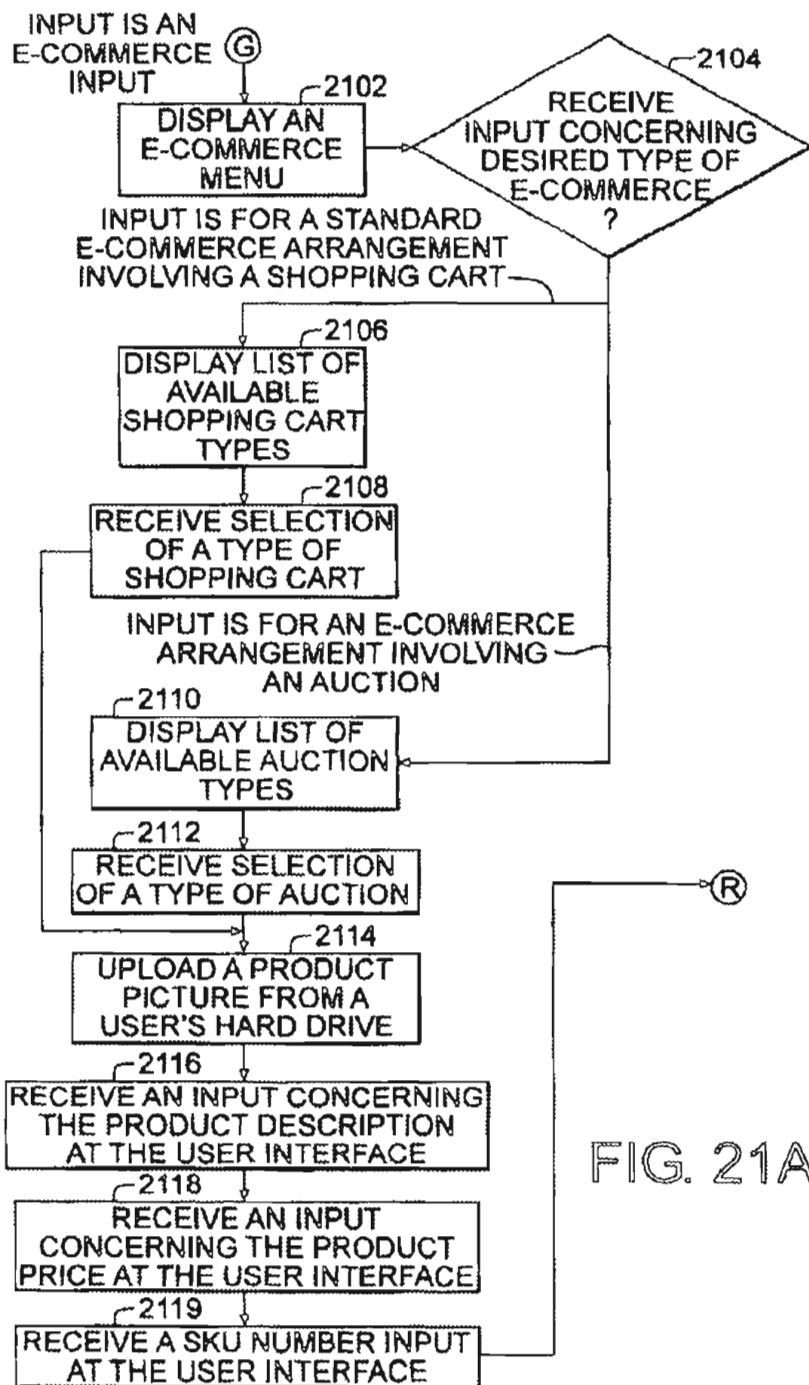


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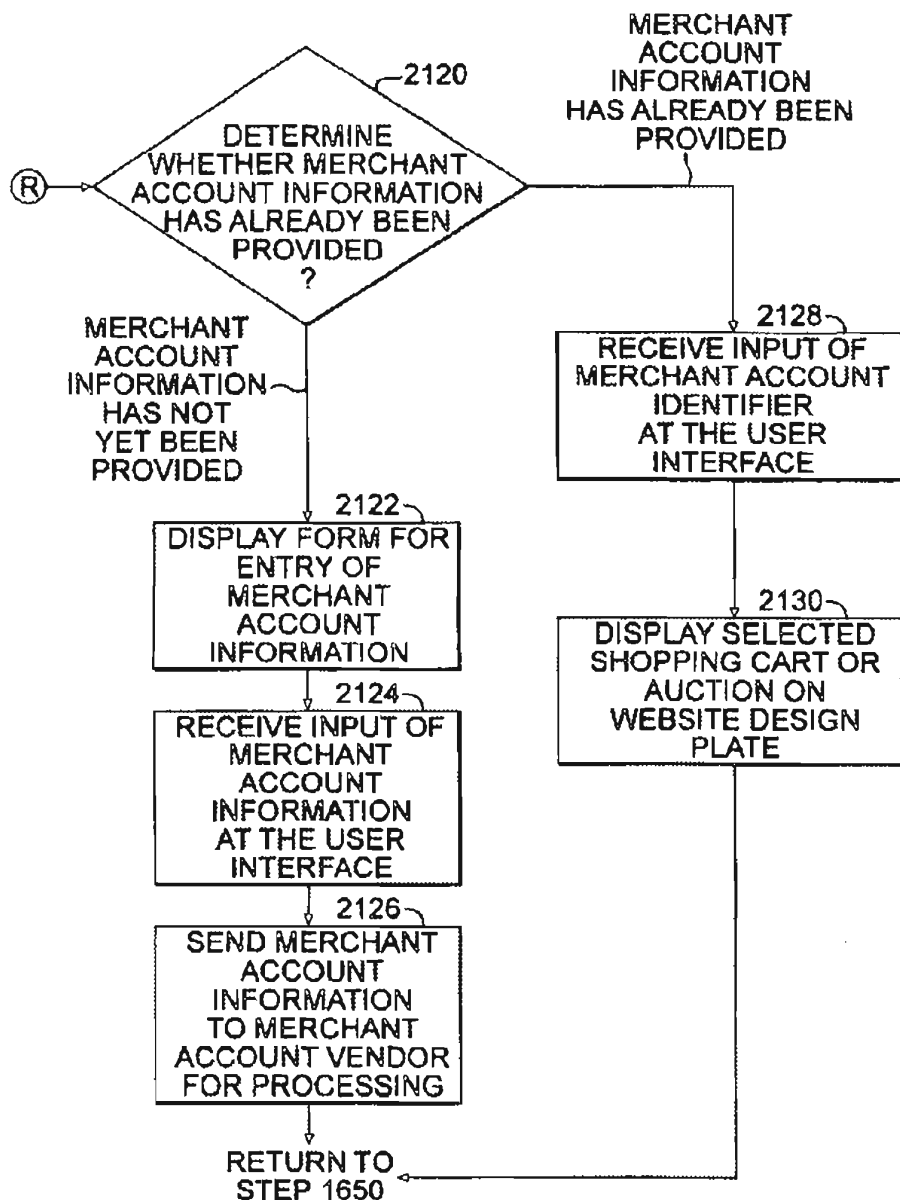
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FIG. 21B



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FIG. 22A

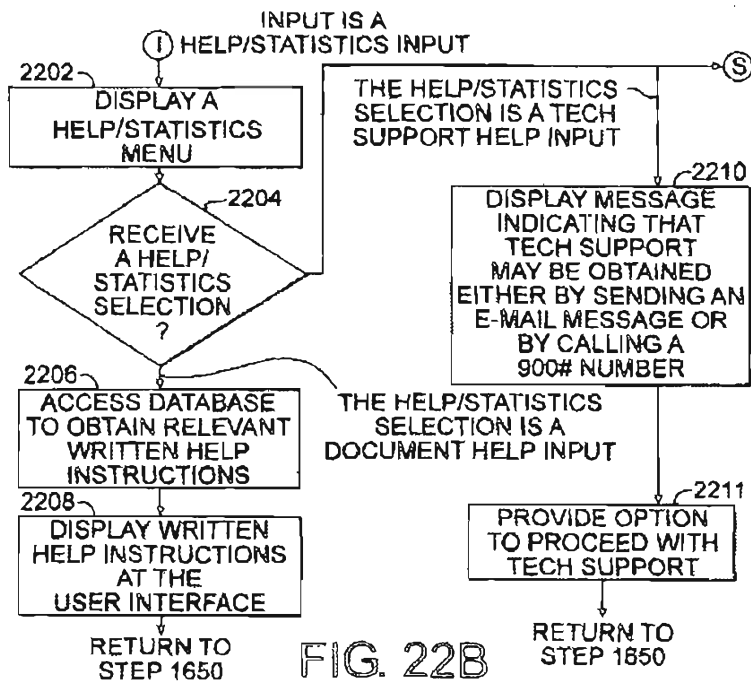
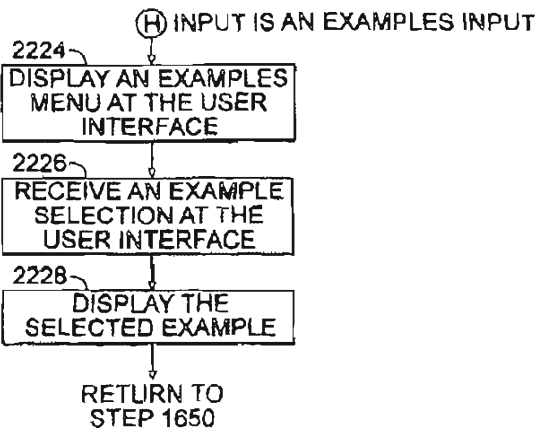


FIG. 22B

FIG. 22C

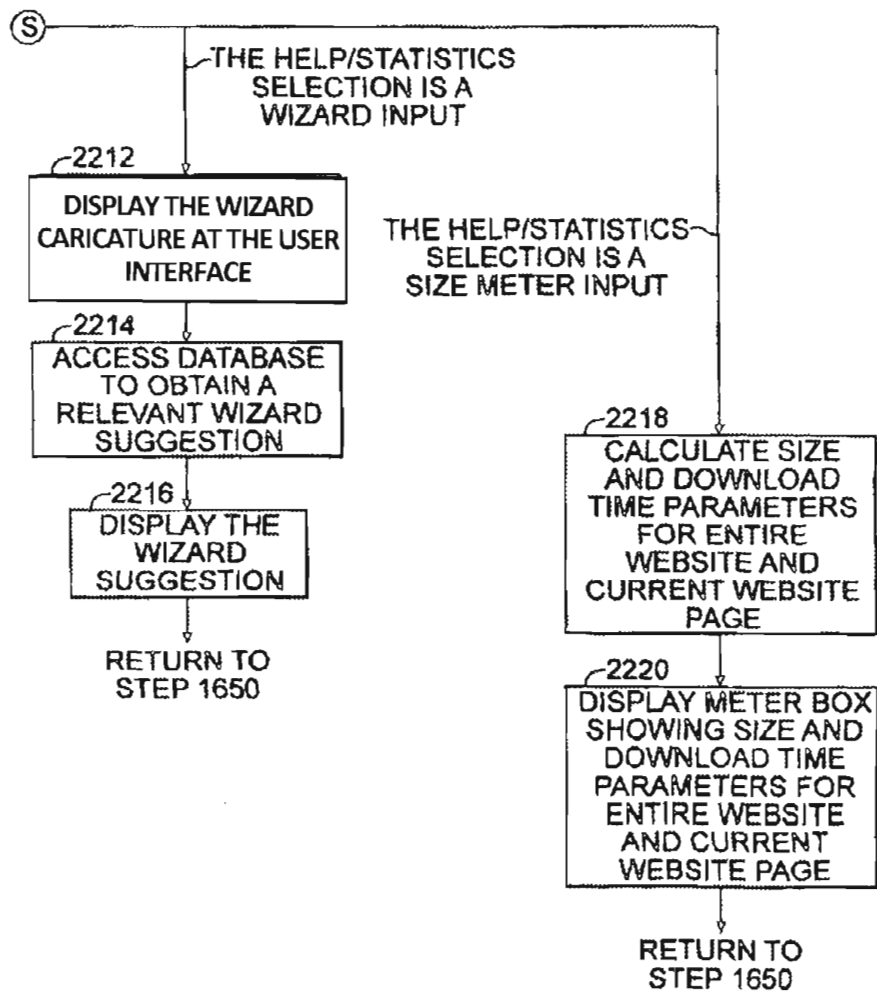
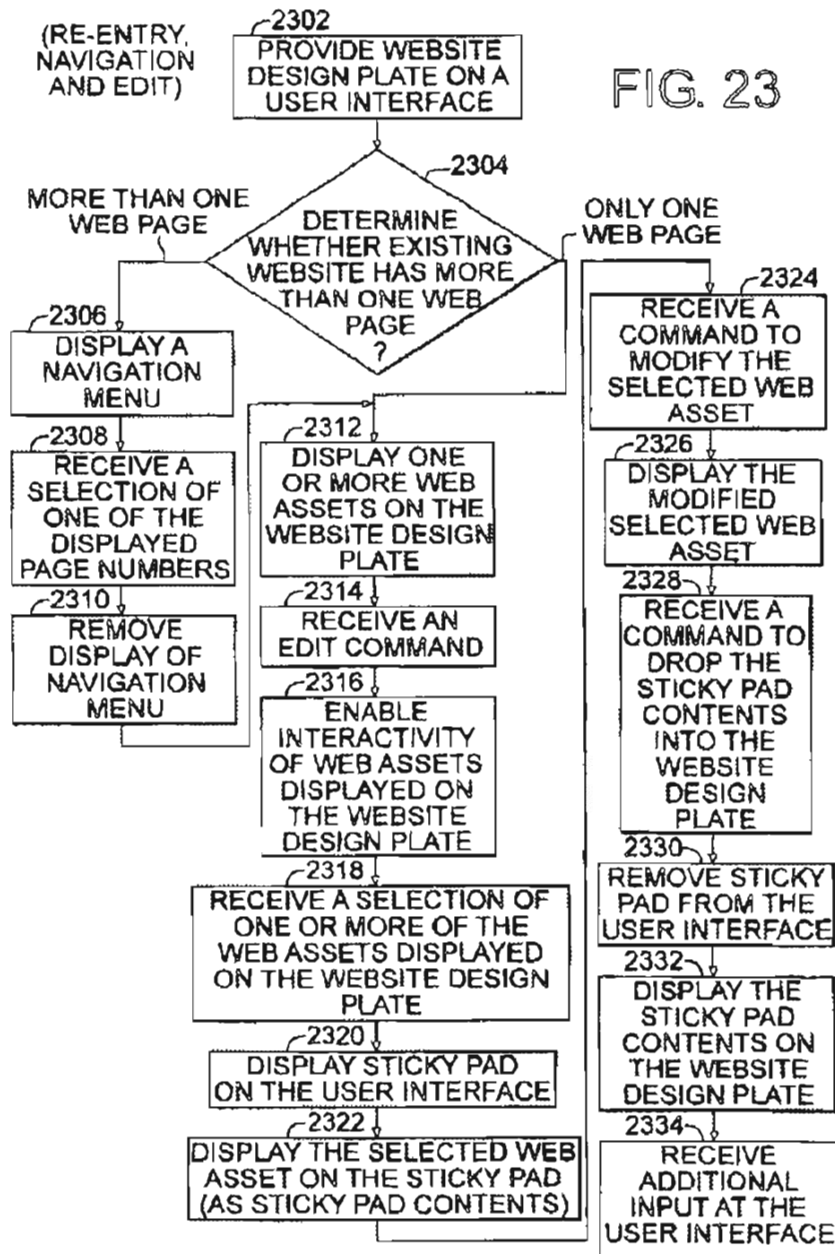


FIG. 23



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RECIPROCAL LINKING ARRANGEMENT BETWEEN WEB PAGES

CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a Continuation of U.S. application Ser. No. 13/763,128, filed on Feb. 8, 2013, which is a Continuation of U.S. application Ser. No. 13/669,027, filed on Nov. 5, 2012 (now U.S. Pat. No. 8,423,399), which is a Continuation of U.S. application Ser. No. 13/206,483 (now U.S. Pat. No. 8,335,713), filed on Aug. 9, 2011, which is a Continuation of U.S. application Ser. No. 09/589,551 (now U.S. Pat. No. 7,996,259), filed on Jun. 7, 2000.

STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT

(Not Applicable)

FIELD OF THE INVENTION

The present invention relates generally to creating and posting web pages to the internet, and more specifically, to a method for more easily developing web pages through the use of a graphical user interface.

BACKGROUND OF THE INVENTION

The World Wide Web (web) has rapidly become an invaluable tool to individuals and businesses. Not only can an individual or business post information on the web, but it can also use the web to transact business. Because the public is acutely aware of the web's business and personal benefits, millions of web pages are being added to the web each year.

Typically, a web page is defined by a document containing HyperText Markup Language (HTML) code. An HTML document suitable for posting on the internet includes both "content" and "markup." The content is information which describes a web page's text or other information for display or playback on a computer's monitor, speakers, etc. The markup is information which describes the web page's behavioral characteristics, such as how the content is displayed and how other information can be accessed via the web page.

In order to provide web-based information and services over the internet, the web employs "client" computers, "browser" software, and "server" computers. A client computer is a computer used by an individual to connect to the internet and access web pages. A browser is a software application, located on a client computer, which requests, via the internet, a web page from a server computer. After receiving the web page, the browser displays the web page on the client computer's monitor. A server computer is a computer which stores web page information, retrieves that information in response to a browser's request, and sends the information, via the internet, to the client computer. Thus, after a web page is created, the page must be "posted" to a particular server computer which "hosts" the page, so that the page can be accessed over the internet.

In order to have one's web page hosted by a server, the individual must contract with an internet service provider (ISP) associated with the server. This contract specifies, among other things, the duration of the time that the ISP will host the page, and how much the individual will pay for that hosting service.

Even though the idea of having one's own web page is appealing, the average individual has little or no knowledge

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about how to create a web page. Particularly, the average individual does not know how to create an HTML document or to post that document to a server computer. Unless that individual is willing to learn how to create and post their own web page, that individual is faced with few options.

The most commonly used avenue for an individual to get his web page on the internet is to employ one of numerous companies to provide, for a fee, web page/website development services. After contacting such a website development company, the individual would meet with one of the company's web page designers to explain the individual's concept for his web page. The designer would then create the associated HTML document. After approval by the individual, the designer may provide the service of posting the web page to a server. The server typically is not associated with the website development company. Thus, the individual must separately contract with an ISP associated with the server to host the web page. Typically, this web page creation and posting process is time consuming and expensive, because it requires the individual and the designer to spend a significant amount of time together working on a particular page design. In addition, the process is inefficient because the individual must work separately with a website development company and an ISP.

The difficulties and expense associated with web page creation and design are exacerbated by the fact that many individuals who desire to set up web pages are doing so for commercial reasons, i.e., the individuals desire to conduct business or "e-commerce" over the internet using their web pages. Developing a web page/website suitable for e-commerce typically requires at least two types of features above and beyond those required for a standard (non-commercial) web page/website. First, an e-commerce website typically requires marketing features. As noted, there are millions of web pages already existing on the internet, and so the success of an internet-based business employing a website depends critically upon whether consumers on the internet are aware of, and can easily access, the website.

With respect to these marketing features, a common way of marketing a website on the internet is to have other websites display advertising messages ("banner ads") concerning the website. A second way of marketing a particular website on the internet is simply to have other websites display selectable commands ("links") which, if selected by a person accessing the other websites using his browser, cause the browser to access the particular website. Although the use of such banner ads and links is very common, the setting up of such mechanisms is not always easy. In particular, other websites typically do not display banner ads and links for a particular website without contractual arrangements, including payment, which can be difficult for a novice web designer to arrange and expensive to arrange via a website development company.

In addition to marketing features, an e-commerce website typically also requires features that allow the conducting of sales transactions, i.e., features for executing transactions involving the buying and selling of goods and/or services. Such features typically include a sales mechanism, i.e., a "shopping cart" mechanism or an "auction." Further, such features typically include a payment arrangement, i.e., an arrangement allowing for transfers from a purchaser's credit card to a merchant account associated with the e-commerce website. The setting up of such sales mechanisms and payment arrangements also can be difficult for a novice web designer and expensive if performed by a website development company.

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What is needed, therefore, is a method for enabling an individual to conveniently design a web page without requiring that individual to learn HTML or to interact extensively with a web page designer at a website development company. What is further needed is a streamlined method for web page/website development and, in particular, a method of facilitating the development of e-commerce websites having key marketing and sales transaction features.

SUMMARY OF INVENTION

The present invention relates to a method of assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the internet. The method includes, during design of the first website, receiving information at a user interface indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed. The method further includes saving the information at a first database that is coupled to the user interface, obtaining the element for marketing of the type indicated, and causing the display of the element for marketing at the second website when the first website is activated with respect to the internet. The element for marketing includes at least one of a banner ad concerning the first website and a link to the first website.

The present invention additionally relates to a method of assisting a website designer in establishing an e-commerce feature on a first website being designed by the website designer for access by third parties upon the activation of the first website on the internet. The method includes receiving at a user interface a selection of the e-commerce feature that is desired to be implemented on the first website, wherein the e-commerce feature is at least one of a shopping cart and an auction. The method further includes receiving at the user interface information concerning a picture of a product desired to be sold using the e-commerce feature, receiving at the user interface information concerning a written description of the product, receiving at the user interface information concerning a price of the product, and receiving at the user interface information concerning an identification number of the product. The method additionally includes, when the first website is activated on the internet, displaying the e-commerce feature on the first website. The display of the e-commerce feature includes the display of at least some of the picture, written description, price and identification information of the product.

The present invention further relates to a computer-readable storage medium containing computer executable code for instructing at least one computer to perform several steps. In particular, the computer executable code instructs the computer to perform the step of, during design of a first website, receiving information at a user interface indicating a type of an element for marketing that is to be displayed at a second website, and information specifying the second website at which the element is to be displayed. The steps further include saving the information at a first database that is coupled to the user interface, obtaining an element for marketing of the type indicated, and causing the display of the element for marketing at the second website when the first website is activated with respect to the internet. The element for marketing includes at least one of a banner ad concerning the first website and a link to the first website.

The present invention additionally relates to a computer-readable storage medium containing computer executable

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code for instructing at least one computer to perform several steps. In particular, the computer executable code instructs the computer to perform the step of receiving at a user interface a selection of an e-commerce feature that is desired to be implemented on a first website, wherein the e-commerce feature is at least one of a shopping cart and an auction. The computer executable code further instructs the computer to perform the steps of receiving at the user interface information concerning a picture of a product desired to be sold using the e-commerce feature, receiving at the user interface information concerning a written description of the product, receiving at the user interface information concerning a price of the product, receiving at the user interface information concerning an identification number of the product and, when the first website is activated on the internet, displaying the e-commerce feature on the first website. The display of the e-commerce feature includes the display of at least some of the picture, written description, price and identification information of the product.

The present invention further relates to an internet-based system for assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the internet. The system includes a server computer accessible by a plurality of registered user computers and a plurality of unregistered computers using the internet. The server computer receives at a user interface displayed at one of the registered user computers information indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed. The server computer additionally saves the information at a first database that is coupled to the server computer, and obtains an element for marketing. The server computer further hosts the second website, activates the first website on the internet by hosting the first website on the internet, provides a web page of the second website to one of the unregistered computers, and displays the element for marketing on the web page.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 illustrates a system in which the method of the present invention can be practiced;

FIG. 2 illustrates an exemplary graphical user interface (GUI), including a website design plate and a STICKY PAD™, which is employed in performing the method of the present invention;

FIG. 3 illustrates in greater detail the STICKY PAD™ of the GUI of FIG. 2;

FIG. 4 illustrates searching for graphic images ("web assets" or "fx") using the STICKY PAD™;

FIG. 5 illustrates searching for sounds using the STICKY PAD™;

FIG. 6 illustrates searching for colors using the STICKY PAD™;

FIG. 7 illustrates text editing using the STICKY PAD™;

FIG. 8 illustrates the operation of a running meter on the STICKY PAD™;

FIG. 9 illustrates the creation of a banner ad and a logo using the STICKY PAD™;

FIG. 10 illustrates the generation of a website outline using the navigation feature of the website design plate;

FIG. 11 illustrates providing log in information and generating a table/cell at the website design plate;

FIG. 12 illustrates the operation of STAY STICKY™ features, including smart agent and MAIL WIZ™ features;

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FIG. 13 illustrates the development of website e-commerce mechanisms, including shopping carts and auctions, as well as the setting-up of a merchant account, using the e-commerce feature of the website design plate;

FIG. 14 illustrates the operation of examples and help/statistics features (including a size meter/meter box) of the website design plate;

FIG. 15 illustrates providing payment (including credit card) information when attempting to save website information assembled on the website design plate;

FIGS. 16A and 16B illustrate flowcharts with method steps for developing a web page of a website, in accordance with one embodiment of the present invention;

FIGS. 17A and 17B illustrate flowcharts with method steps for providing text and tables/cells into a web page of a website that is being developed, including text editing, which can be performed as part of the flowcharts of FIGS. 16A and 16B;

FIGS. 18A and 18B illustrate flowcharts with method steps for saving website information and previewing website operation, which can be performed as part of the flowchart of FIGS. 16A and 16B;

FIGS. 19A and 19B illustrate flowcharts with method steps for generating a website outline using a navigation feature, which can be performed as part of the flowchart of FIGS. 16A and 16B;

FIGS. 20A and 20B illustrate flowcharts with method steps for performing STAY STICKY™ features, including smart agent features and MAIL WIZ™ features, which can be performed as part of the flowchart of FIGS. 16A and 16B;

FIGS. 21A and 21B illustrate flowcharts with method steps for performing e-commerce features, which can be performed as part of the flowchart of FIGS. 16A and 16B;

FIGS. 22A, 22B and 22C illustrate flowcharts with method steps for performing examples and help/statistics features, which can be performed as part of the flowchart of FIGS. 16A and 16B; and

FIG. 23 illustrates a flowchart with method steps for recommencing development of, and editing, a website that has already been partially developed using the GUI of FIG. 2.

DETAILED DESCRIPTION OF THE INVENTION

It is to be understood that the phraseology or terminology employed herein is for the purpose of description, and not of limitation. Accordingly, the invention is intended to embrace all such alternatives, modifications, equivalents, and variations as fall within the spirit and broad scope of the appended claims. The present invention is a method for developing a website through the use of a graphical user interface. FIG. 1 is a block diagram illustrating a generalized computer/internet system 100 in which the method of the present invention can be practiced. Specifically, the preferred system 100 includes a server computer 140 operably connected to the internet 130 using standard techniques well-known in the art, for instance the TCP/IP protocol. The method preferably can be implemented through the use of the server computer 140 using standard computer programming techniques well-known in the art. As an example, the server computer 140 can preferably be programmed using the Java™ programming language distributed by Sun Microcomputer Corp. of Palo Alto, Calif.

Three types of other parties can interact with the server computer 140. First, registered users who have logged in with respect to the server computer 140, as discussed with reference to FIG. 11, can fully access the server computer at one or more registered users computers 180. Second, third party potential customers who have not yet logged in with respect to the server computer 140 can obtain limited access to the

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server computer at one or more third party potential customers computers 110. Finally, third party authors who contribute web assets for use in web pages created by registered users can access the server computer 140, from one or more third party author computers 120, for the limited purpose of uploading web assets to the server computer for distribution. Registered users computers 180, third party potential customers computers 110 and third party authors computers 120 are home computers or other interface devices (not necessarily complete computers) that are capable of accessing the server computer 140 through the internet 130 using standard web-browsers, well-known in the art.

The server computer 140 preferably has or is coupled to a third party user database 160, a web assets database 170, and a programming database 190. The third party user database 160 preferably includes a listing of all third party users registered to access the server computer 140. Specifically, information provided during the log in process by registered users is included in the third party user database 160. Also, information regarding websites that have been or are being designed by registered users can be saved (as discussed with reference to FIG. 15) in the third party user database 160. Moreover, third party user database 160 preferably includes a listing of third party authors who have uploaded web assets to the web assets database 170 for use by the registered users in creating their websites, and who have been authorized by the system 100 to receive payment for the use of their web assets by the registered users. Web assets database 170 stores a catalog of web assets uploaded by third party authors. In addition, web assets that are stored in web assets database 170 can include web assets that are derived from other sources, such as web assets designed by the operator of the server computer 140. System 100 automatically compensates a third party author whose uploaded web asset has been distributed to a registered user. When system 100 posts a web page having a web asset uploaded by a third party author on behalf of a registered user, the system 100 credits the credit card account of the third party author in compensation for the use of the web asset. Specifically, the server computer 140 contacts the credit card company 150 corresponding to the third party author's credit card and submits a credit over the internet 130 to the credit card company 150.

Referring to FIG. 2, the present invention employs a graphical user interface (GUI) to allow a registered user to easily develop a website comprising one or more web pages. In one embodiment, all or nearly all of the programming required to operate the GUI is stored on programming database 190, and is accessed by potential customers and registered users by way of their web browsers (and is viewed via the internet 130 when needed by those potential customers and registered users). However, in the preferred embodiment, the programming required to operate the GUI is provided to potential customers and registered users as software (i.e., on a floppy disk or a CD-ROM), and is stored directly in the programming database 190. Potential customers are capable of interacting with the GUI to perform certain website design functions by logging into computer 140. However, key functions such as searching for web assets, and saving/submitted a fully-designed website for posting on the internet 130, can only be performed once the potential customers have logged into the server computer 140 and become registered users such that they have full access to the server computer 140 via the internet 130. Hereinafter (except with respect to FIG. 11 concerning the log in process), all discussion regarding use of the GUI will concern use of the GUI by registered users at registered user computers 180; however, it should be under-

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stood that third party potential customers can also perform limited functions with respect to the GUI before logging into the system 100.

The GUI is provided on a display at the registered user computer 180 and includes a primary display screen, which is termed a STICKY WEB™ website design plate 210 (or web design plate) (STICKY WEB™ is a trademark of the Perfect Web Corporation, of Delray Beach, Fla.). Website design plate 210 has a plurality of selection buttons 212, which in the preferred embodiment include a log in button 215, a save button 218, an edit button 220, a navigation button 225, a preview button 230, a text button 235, an fx button 240, a color button 245, a sound button 250, a tables button 255, a STAY STICKY™ button 260, an e-commerce button 265, an examples button 270 and a help/statistics button 275. In one embodiment, a registered user selects or actuates selection buttons 212 by pointing at the buttons using a mouse of the registered user computer 180, and clicking on the mouse. In alternate embodiments, a registered user can select or actuate selection buttons 212 by providing appropriate keystrokes on a keyboard of the registered user computer 180, by appropriately touching a touch screen of the registered user computer, or by providing an input signal at another conventional type of input device known in the art.

In addition to selection buttons 212, website design plate 210 further includes a design space 214 in which can be displayed one or more web assets 205, which together form a web page. Web assets can include JAVA applets, scripts (including moving scripts and scripts written in a variety of internet languages such as PERL, CGI, SQL, JAVA, XML and HTML), stock art, clip art, digital art, background images, textures, GIF, JPEG, TIF, BMP, chat rooms, message boards, web objects, buttons, templates, themes, fading color, mouse over effects, borders, buttons, shadows, icons, internet designs, sounds, music, etc. In general, web assets are graphic images, including text and related color, sound and animation features, which can be displayed on a website. When displayed for a registered user who has logged into the system 100 (as discussed with reference to FIG. 11), the web assets are interactive, i.e., information can be exchanged between the registered user and the system 100 via the web assets.

As shown in FIG. 2, during design of a website using the GUI, a second display screen, termed a STICKY PAD™ 310, is often shown within (or over) website design plate 210 (STICKY PAD™ is a trademark of the Perfect Web Corporation, of Delray Beach, Fla.). STICKY PAD™ 310 includes a design space 280 on which one or more web assets 305 can be displayed. Web assets 305 can be manipulated on the STICKY PAD™ 310, which acts as the editing platform for the registered user and appears when it is necessary to edit or otherwise modify web assets. STICKY PAD™ 310 further includes a plurality of selection buttons 285, 295, which are selected by a registered user in the same manner as selection buttons 212 are selected. As shown in FIG. 3, buttons 285 include an fx button 315, a sound button 320, a color button 325 and a search button 330, and buttons 295 include a text editor button 345 and a running meter button 350, in one embodiment of the invention. Buttons 285, 295 are described in further detail with reference to FIGS. 4-9. STICKY PAD™ 310 additionally includes, in certain embodiments, a banner bar 290. Banner bar 290 is capable of displaying one or more banner ads corresponding to other websites designed by other registered users through the use of system 100, which allow for marketing of those websites. Also, banner bar 290 is capable of displaying banner ads corresponding to outside advertisers.

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A registered user can interact with STICKY PAD™ 310 to perform a variety of operations. The registered user can select (by way of a mouse or other input device) any of the web assets 305 that are currently shown on the STICKY PAD™ 310, move the web assets relative to one another, and alter the size of the web assets. Referring to FIGS. 4-6, the registered user also can select search button 330 to identify and obtain new web assets and other elements, including sound elements and color elements, which can be added to the website that is being developed. Upon selecting search button 330, a search menu 410 appears having selectable options 420 for fx (web assets), sound and color. As shown in FIG. 4, if the registered user selects fx (web assets) from search menu 410, an fx menu 430 appears. As shown in FIG. 5, if the registered user selects sound from search menu 410, a sound menu 540 appears. As shown in FIG. 6, if the registered user selects color from search menu 410, a color pallet 640 appears. To streamline operation of the STICKY PAD™ 310, the STICKY PAD™ further includes individual fx, sound and color buttons 315, 320 and 325 which, when selected, result in the immediate display of fx menu 430, sound menu 540 and color pallet 640.

In the preferred embodiment, fx (web assets) menu 430 includes a search entry field 435 in which the registered user can enter keywords or other search criteria indicative of the type of web assets that the registered user desires to implement within its website. Upon receiving search criteria from the registered user, the system 100 (particularly the server computer 140) searches the web assets database 170 for web assets that meet the search criteria. System 100 employs any of a number of conventional search engines to perform the searches. Upon the commanding of a search by the registered user, the fx menu 430 lists all available web assets that meet the search criteria in a scroll menu, as shown in FIG. 4. Also in the preferred embodiment, sound menu 540 includes a search entry field 545 in which the registered user can enter keywords or other search criteria indicative of the type of sounds that the registered user desires to implement within its website. Upon receiving search criteria from the registered user, the system 100 performs a search for sounds meeting the search criteria and then lists all available sound elements that meet the search criteria in a scroll menu, as shown in FIG. 5.

Fx menu 430 and sound menu 540 typically list available elements in categories. For example, for fx/web assets, the categories can include icons, scripts, chat rooms and message boards and, for sound elements, the categories can include general sounds, noises, music and sound effects. Although in the preferred embodiment, fx menu 430 and sound menu 540 list web assets and sound elements that are identified based upon searches of web assets database 170 and meet search criteria specified in search entry fields 435, 545, in alternate embodiments searches need not be performed. In such embodiments, fx menu 430 and sound menu 540 directly list all available web assets and sound elements that are available for implementation into a website, without receiving search criteria from the registered user. Further, with respect to color pallet 640, in the preferred embodiment the color pallet lists all available colors without receiving search criteria from the registered user or performing any searches to narrow down the list of available colors. However, in alternate embodiments, color pallet 640 can include a search entry field for receiving search criteria from the registered user and, upon performing a search, display colors that meet the specified search criteria.

Once fx menu 430, sound menu 540 and color pallet 640 list available web assets, sound elements and color elements, respectively, the registered user can select one or more of the elements for implementation in the registered user's website

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(i.e., by selecting one or more of the elements using a mouse). The registered user can, upon selecting a web asset, sound or color, cause the selected element to appear within design space **280** of STICKY PAD™ **310** (i.e., by double-clicking on the element using a mouse). The registered user also can apply selected web assets, sound elements or color elements to existing web assets or other elements within STICKY PAD™ **310**. The registered user applies the selected elements to existing elements within the STICKY PAD™ **310** by dragging and dropping the selected elements onto the existing elements. In the preferred embodiment, sound and color elements can be dragged, dropped and otherwise manipulated around the STICKY PAD™ **310** in the same manner as web assets; when the registered user selects a sound or color element, the selected sound or color element is displayed as an icon or thumbnail image **550**.

For example, once a chick icon has been selected from fx menu **430** and is displayed in design space **280** as web asset **305a** (as shown in FIG. 3), the registered user can further modify the chick to make a peep or other noise by selecting the desired noise from sound menu **540**, dragging the noise to the chick, and dropping the noise onto the chick. If the color of the chick as obtained from fx menu **430** is not the desired color, i.e., the color is white and not yellow, the registered user can further modify the color of the chick by selecting the color yellow from color pallet **640**, dragging the color to the chick, and dropping the color onto the chick. Although in the preferred embodiment, sound and color elements can be dragged and dropped in the same manner as web assets, in alternate embodiments, a registered user can instead apply a particular sound or color element to an existing element within the STICKY PAD™ **310** simply by selecting the existing element before (or immediately after) selecting the particular sound or color element. The web assets, sound elements and color elements displayed in fx menu **430**, sound menu **540** and color pallet **640**, respectively, are provided from server computer **140**, which accesses web assets database **170**. Web assets database **170** stores web assets that are provided from a variety of sources including internet companies, publishers, geeks, designers, and artists. In the preferred embodiment, some of the web assets stored on web assets database **170** are provided from independent third party authors who access system **100** by way of third party author computers **120**. System **100** compensates the independent third party authors when their web assets are utilized by registered users in designing websites. Web assets can also be provided under license from major digital and stock art publishers (i.e., Adobe, Corel, Com Stock, etc.). Although the system **100** is designed to allow the registered user to obtain web assets and sound and color elements from web assets database **170**, the system also allows the registered user to obtain web assets from other sources. For example, the registered user can upload its own web assets from a memory device (i.e., the hard drive) of registered user computer **180**. Also, in certain embodiments, the registered user can obtain web assets by independently accessing third party websites via the internet, and selecting web assets displayed on those websites.

The web assets that can be selected from fx menu **430** include web assets that consist partly, or even entirely, of text. However, STICKY PAD™ **310** further allows a registered user to enter text directly into the STICKY PAD™ by typing in the desired text at a keyboard at registered user computer **180**. The text is displayed within design space **280** of the STICKY PAD™ **310** once the registered user hits the "enter" key on the keyboard. In certain embodiments, text that is desired for entry into the STICKY PAD™ **310** can be uploaded from a memory associated with registered user

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computer **180** rather than typed in by the registered user. Once the text is displayed within the design space **280**, the text can be selected by the registered user and moved around within design space **280** like any other web asset. The text can also be edited if the registered user selects the text editor button **345**. As shown in FIG. 7, upon the selection of text editor button **345**, a text editor menu **710** appears. Displayed on text editor menu **710** are a font/style/size/color button **720** and a spell check button **730**. Upon selection of the font/style/size/color button **720**, a font/style/size/color menu **740** appears, from which the registered user can select a plurality of fonts, styles and colors for the text as well as select a size setting for the text.

Upon selection of the spell check button **730**, a spell check is performed using computer algorithms that are well known in the art. In one embodiment, a spell check result box **750** appears once the spell check has been performed in relation to the text, and suggested changes to the text appear in the spell check result box. In alternate embodiments, the spell check is executed without the display of any spell check result box. For example, if a spelling error is detected in the text, the spelling error is highlighted in the text itself. The registered user can identify which text is to be edited in a variety of ways. In one embodiment, the registered user must select the text (i.e., highlight the text, using a mouse) that is to be edited, and then subsequently select text editor button **710**. In another embodiment, the registered user first selects text editor button **710** and then subsequently selects the text that is to be edited.

Referring to FIG. 8, STICKY PAD™ **310** additionally includes running meter button **350**. Upon being selected by the registered user, running meter button **350** provides a running meter block **810** that shows an indication of the size of the web asset(s) that are displayed on STICKY PAD™ **310**. As shown in FIG. 8, in one embodiment, the indication provided by running meter block **810** is an indication (preferably displayed on a single line of text) of the memory required for storing the web assets. In alternate embodiments, other or additional information can be displayed by running meter block **810**, e.g., the time required to download or execute the web assets. In the preferred embodiment, this other information is not displayed by way of selecting running meter button **350** of STICKY PAD™ **310**, but is displayed by way of help/statistics button **275** of website design plate **210**, as described below with reference to FIG. 14. Although in the present embodiment, size information is only displayed when running meter button **350** is selected by the registered user, in alternate embodiments the running meter button is replaced by a running meter display region, which always displays the total size of all web assets currently being displayed in display region **280**.

In the preferred embodiment, the web assets that are selectable by a registered user are standardized to facilitate the registered user's creation of a website that operates in an efficient and user-friendly manner and, in particular, does not require too much memory or require excessive time to be downloaded from the internet. Thus, in the preferred embodiment, an authenticating team reviews all web assets that are provided from third party authors before the web assets are stored on web assets database **170** and accessible by registered users in designing their websites. The authenticating team only allows web assets that do not exceed a maximum kilobytes (K) allowed per web asset and web page to be stored on the web assets database **170**. In addition to storing information concerning the characteristics of the web assets, web assets database **170** also stores accounting information regarding the usage of the web assets stored on the web assets database. At the end of each time period (i.e., month or quar-

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ter), the server computer 140 reviews the accounting information and determines the amount of usage of each of the web assets by each registered user. The web asset usage is assigned a cash amount per use so that a total amount of money owed by each registered user can be calculated (and charged to each registered user).

Turning to FIG. 9, a registered user can utilize STICKY PAD™ 310 to design a banner ad 910 to be used to advertise the registered user's website. The registered user can search for a desired banner ad design by selecting search button 330 and then selecting fx from search menu 410 (or simply by selecting fx button 315), to obtain fx menu 430, at which a search can be requested. In the fx menu 430, all available banner ads have standard size configurations, namely 240.times.360 pixels or 240.times.240 pixels. As with respect to other web assets that are displayed within STICKY PAD™ 310, the banner ad 910 that is being developed using the STICKY PAD™ can be moved within the design space 280 and modified through the addition of other web assets (including text), which are obtained by selecting search button 330 (or fx button 315) and bringing up fx menu 430. Also, the banners can be modified through the addition of sounds and colors, which are obtained by selecting search button 330 (or by selecting sound and color buttons 320 and 325, respectively) to bring up sound menu 540 and color pallet 640, respectively.

Also as shown in FIG. 9, the registered user can utilize STICKY PAD™ 310 to design a logo 920 for the registered user's website. As with respect to the design of banner ads, the registered user can search for a desired logo design in, and select the desired logo design from, fx menu 430. Alternatively, the registered user can upload an already-designed logo from a memory device at registered user computer 180 (e.g., the registered user's hard drive) into STICKY PAD™ 310. The selected or uploaded logo can then be further edited and modified within the STICKY PAD™ 310, for example, through the addition of other web assets (including text), sounds and colors. Although in the present embodiment logos and banner ads are designed using the same searching and design procedures that are employed in the design of other website elements, in other embodiments STICKY PAD™ 310 and/or website design plate 210 have specific "logo design" and "banner design" buttons that the registered user can select to design logos and banner ads, respectively.

When the registered user finishes developing and modifying the web assets in the design space 280 of the STICKY PAD™ 310, the registered user drags and drops (i.e., using a mouse) the web assets into website design plate 210. In alternate embodiments, the registered user can provide a command to the system 100 to terminate the display of the STICKY PAD™ 310, at which time all of the elements being displayed in the STICKY PAD™ appear in the website design plate 210. When the web assets are dropped into website design plate 210, the web assets become interactive (as long as the registered user has logged in to the system 100, as discussed with reference to FIG. 11). That is, the web assets become functional so that the registered user is able to exchange information with respect to the web assets, i.e., interact with system 100 through the use of the web assets. When dropped into website design plate 210, the web assets form or are added to a particular web page of the website being developed.

A website that is being developed typically will have more than one web page. As shown in FIG. 10, the registered user can provide information to the system 100 indicating the number of web pages in the website, as well as determine the web page that is currently being displayed by website design

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plate 210, by selecting navigation button 225 on website design plate 210. Upon selecting navigation button 225, a navigation menu 1010 appears. Navigation menu 1010 includes a list of web pages 1 through 10. In alternate embodiments, navigation menu 1010 can list fewer or greater than ten web pages. Adjacent to the web page numbers are fields 1015 for inputting names/identifiers for the respective web pages. The registered user can input a name/identifier corresponding to each of web pages 1-10 by selecting the respective field 1015 (i.e., by way of a mouse) and typing in the name/identifier. The registered user determines which web page is currently being displayed by website design plate 210 by selecting one of the page numbers in the list. In certain embodiments of the invention, the website design plate 210 always displays a web page number indication corresponding to the web page that is currently being displayed, for example, at a corner of design space 214.

Websites that are designed using the system 100 are not limited to ten web pages. As shown in FIG. 10, the registered user can select an add new page button 1020 on navigation menu 1010 to add additional pages (and to provide names/identifiers corresponding to those additional pages). Also, although the registered user can type in original names/identifiers corresponding to the web pages (e.g., in fields 1015), the registered user can also utilize standard names/identifiers by selecting a scroll menu button 1030. Upon selecting scroll menu button 1030, a scroll menu 1040 appears that lists various standard web page names/identifiers such as, for example, Company Information, Recent News, Coining Soon, About Us, Products, and Contact Us. Navigation menu 1010 further includes a navigation locations button 1050. Upon selecting the navigation locations button 1050, the registered user is able to determine where a navigation bar or website map/outline will be positioned on one or more web pages of the website (e.g., at the top, bottom, left or right). The navigation bar or website map/outline allows website users to visualize the website as a whole and the various web pages that are available for access by the website users.

As discussed, the STICKY PAD™ 310 acts as the editing platform for the registered user, and appears when it is necessary to edit or otherwise modify web assets. During development of a website, the registered user can select (by way of a mouse or other input device) one or more of the web assets 205 that are displayed on website design plate 210 to activate STICKY PAD™ 310 and allow editing of the selected web assets, which appear in design space 280. If an item of text within the design space 214 is selected by the registered user, both the STICKY PAD™ 310 and then the text editor menu 710 appear to allow for editing of the text. STICKY PAD™ 310 also appears when the registered user proceeds with a search to obtain a desired web asset by selecting the fx button 240. Upon the selecting of the fx button 240 by the registered user, the fx menu 430 appears, and the registered user can search for and select a desired web asset. Once the registered user selects a desired web asset from the fx menu 430, the STICKY PAD™ 310 appears with the selected web asset being displayed in design space 280.

Additionally, STICKY PAD™ 310 appears when either the color or sound buttons 245, 250 are selected by the registered user. Upon the selecting of the color or sound buttons 245, 250 by the registered user, the color pallet 640 or sound menu 540 appear, respectively. Once the registered user selects a desired color or sound from the color pallet or sound menu, respectively, the STICKY PAD™ 310 appears with a thumbnail image 550 representing the selected color or sound being displayed in design space 280. Further, STICKY PAD™ 310 appears when the text button 235 of website

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design plate **210** is selected. When text button **235** is selected, the STICKY PAD™ **310** immediately appears and the registered user is allowed to type in text at the keyboard of registered user computer **180**. Text editor button **345** can then be selected by the registered user from the STICKY PAD™ **310** to edit the text.

In addition to web assets (from fx menu **430**), sounds, colors and text, the GUI of system **100** is also capable of adding tables and cells to the website being designed in order to provide depth and perception to the website. As shown in FIG. **11**, when tables button **255** is selected by the registered user, a tables menu **1110** appears. The registered user can then select from the tables menu **1110** one or more tables **1120** and cells **1130**, and also specify the locations of the tables/cells on a web page by selecting a locations button **1140**. In one embodiment, the possible locations of tables/cells on a web page include a top location, a bottom location, a left location and a right location. Unlike the editing of web assets, sounds, colors and text, in the preferred embodiment STICKY PAD™ **310** does not appear upon the selection of tables button **255**. Rather, once a table/cell is selected, the registered user can drag and drop the selected table/cell directly into website design plate **210**.

Upon being dropped into the website design plate **210**, the table/cell automatically aligns at an edge of the design space **214**, with the appropriate edge being determined by the location selected by the registered user. Also upon being dropped into the website design plate **210**, the table/cell becomes interactive. The registered user can move the table/cell from its original location, and also can adjust the size of the table/cell by selecting the table/cell (i.e., by way of a mouse) and stretching or contracting the boundaries of the table/cell. Web assets and other elements can be dragged and dropped both from STICKY PAD™ **310** and from other locations on website design plate **210** into tables and cells, and the color of tables/cells can be modified by selecting color button **245**. Tables differ from cells in that cells typically form enclosed areas within tables. Cells cannot be moved outside of (or moved to overlap) a table boundary enclosing the cells. In alternate embodiments, tables/cells can be created and modified by way of the STICKY PAD™ **310**.

Further shown in FIG. **11** is a log in menu **1150** that appears upon the selection of log in button **215** by a potential customer. In the preferred embodiment of the invention, several features of the GUI can be operated before completion of the log in process, such as uploading web assets from a hard drive of a third party potential customer computer **110** into the website design plate **210**. However, key functions such as searching for web assets, and saving/submitting a fully-designed website for posting on the internet can only be performed by registered users who have full access to the server computer **140** via the internet. To obtain full access to the server computer **140** and perform such functions, log in information must be provided to the system **100**. By requiring this log in information, the system **100** can monitor the activity of the registered users and bill the registered users for their usage of the system, including their usage of web assets provided from third party author computers **120** and saved on web assets database **170**. Additionally, the information provided by registered users during the log in process can be used by the system **100** to determine appropriate markets for the registered users' websites. The use of this market information is discussed further in reference to FIG. **12**.

As shown in FIG. **11**, the selection of log in button **215** brings up log in menu **1150**. The log in menu **1150** includes a scroll and input form with multiple fields **1160** that must be filled in to complete the log in process. The fields **1160** can

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include, for example, fields for the potential customer's (i.e., prospective registered user's) name, address, e-mail address, telephone number, interests, hobbies and businesses. Upon the completing of fields **1160**, a desired identification name is further provided into an identification field **1170** and a desired password is provided into a password field **1180**. The information from fields **1160-1180** is then provided from the third party potential customer (i.e., prospective registered user) computer **110** via the internet **130** to the server computer **140**, where the information is processed and then provided for storage on third party user database **160**. Although in the preferred embodiment, the identification name and/or password are chosen by the potential customer, in alternate embodiments, the identification name and password are assigned by the system **100**.

Assuming that the information provided into the fields **1160-1180** of log in menu **1150** is not rejected by the server computer **140** (e.g., because information was not entered for some of the fields, or because the e-mail address that was entered is invalid), the server computer logs in the potential customer as a registered user and allows the new registered user to access all of the functionality of the system **100**. Also upon successfully logging in the new registered user, the system prompts the new registered user regarding a web address for the registered user's website by displaying a URL query form **1190**. The web address typically concludes with any top-level domain name, i.e., .com, .net, etc. The query form is licensed for use on the system **100** from Internic and/or the other five URL registrants. Further, upon successfully logging in to the system **100**, the new registered user can thereafter bypass the full log in process when reentering the system by simply inputting its identification name and password into the identification and password fields **1170**, **1180**. Upon reentering the system **100**, the registered user selects edit button **220** on website design plate **210** to cause the registered user's website (in its current state of development) to become interactive. Additionally, upon selecting edit button **220**, the registered user can modify any element of the website that is shown within design space **214** by selecting that element (i.e., by clicking on the element using a mouse) to bring up STICKY PAD™ **310**, and then modifying the element within the STICKY PAD™ as discussed above.

Turning to FIG. **12**, website design plate **210** further includes STAY STICKY™ button **260**, which brings up a STAY STICKY™ menu **1210** when selected by the registered user (STAY STICKY™ is a trademark of the Perfect Web Corporation of Delray Beach, Fla.). STAY STICKY™ menu **1210** lists STAY STICKY™ features that are available to the registered user in designing and marketing its website. The STAY STICKY™ features provide the registered user with special information concerning, and marketing opportunities with respect to, other registered users who have designed their websites using the system **100**. That is, the STAY STICKY™ features provide special marketing benefits to registered users of the system **100** vis-a-vis one another. Specifically, the registered user can select from two options on the STAY STICKY™ menu **1210**, smart agent and MAIL WIZ™ (MAIL WIZ™ is a trademark of the Perfect Web Corporation of Delray Beach, Fla.). Upon the selection of the smart agent option from the STAY STICKY™ menu **1210**, a smart agent menu **1220** appears. The registered user can select (e.g., by way of a mouse) from among three options on the smart agent menu **1220**, a suggested marketing locations option **1230**, a create links option **1240**, and a banner ad rotations option **1250**.

When the registered user selects suggested marketing locations option **1230**, the server computer **140** determines the

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best possible places to market the registered user's website on the internet. That is, the server computer **140** determines other websites on which it would be most beneficial to display a link to, or banner concerning, the registered user's website. The server computer **140** makes this determination based upon the information provided by the registered user during the log in process, particularly the information provided in fields **1160** as described with reference to FIG. **11**. Using this information, the server computer **140** searches the information stored in third party user database **160** to identify other websites on which it would be desirable to market the registered user's website. Server computer **140** can utilize any one of a number of search engines that are currently well known in the art to identify such websites using the log in information provided by the registered user. In alternate embodiments, server computer **140** can also access other information other than that within third party user database **160**, including information concerning websites or other marketing locations that were not developed through the use of the system **100**. Upon determining desirable marketing locations, the system **100** can display the identified marketing locations to the registered user.

Upon selection by the registered user of the create links option **1240**, the GUI provides a location selection menu **1260**, in which the registered user can identify addresses for websites to which the registered user desires its website to be linked. In the preferred embodiment, the websites can be selected from among the websites that have been created by other registered users using the system **100**. Location selection menu **1260** includes several open fields **1270** in which the registered user can specify desired websites. Further, location selection menu **1260** lists the suggested websites that were identified in the search performed by server computer **140** upon selection of the suggested marketing locations option **1230**. The list includes selection boxes **1275** that the registered user can check to indicate its selection of the various suggested websites. If the registered user has not yet selected suggested marketing locations option **1230**, the server computer **140** performs the search for suggested websites when it generates location selection menu **1260**. Once the registered user has selected its desired marketing locations on location selection menu **1260**, the system **100** has sufficient information to create links to the registered user's website at other websites.

The registered user can further select the banner ad rotations option **1250** from the smart agent menu **1220**. Upon the selecting of banner ad rotations option **1250**, the system **100** determines whether the registered user has already designed (or uploaded or otherwise provided to the system) a banner ad, as discussed with reference to FIG. **9**. If the registered user has not already designed a banner ad, the system displays a message indicating that it is necessary to create a banner ad in order to participate in banner ad rotations. The system **100** also provides banner ad design options from which the registered user can select a desired banner design. The design options can be obtained by the registered user by using menu **430** to perform a search for banner ads. Following selection of a desired banner ad design, STICKY PAD™ **310** appears, allowing the registered user to further modify and then complete its design of the banner ad. Once a banner ad design is completed, a location selection menu identical to location selection menu **1260** appears following selection of the banner ad rotations option **1250**. The location selection menu allows the registered user to specify the websites at which the registered user desires its banner ad to appear. Once the registered user has selected its desired locations on the

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location selection menu, the system **100** has sufficient information to create banner ads advertising the registered user's website at other websites.

By completing these steps relating to the create links option **1240** and/or the banner ad rotations option **1250**, the registered user causes its website to participate in linking and/or banner ad display functions with other websites that also were created using the system **100** by registered users who opted to participate in these linking and/or banner ad display functions. Once the design of the new website by the registered user is completed and the new website is posted/activated, the system **100** causes the selected websites of other registered users (i.e., the websites selected during the design of the new website) to display a link and/or banner ad concerning the new website. In the preferred embodiment, each website that is developed by a registered user who opts to participate in the linking functions can display unlimited links to other registered users' websites. If the number of links to be displayed exceeds the available display space on the display screen, links can be rotated on and off the screen. Each website that is developed by a registered user who opts to participate in the banner ad display functions can rotate an unlimited number of banner ads for other registered users' websites. The banner ads can be shown sequentially over a period of time at the registered user's website.

System **100** will cause each website that is designed to participate in the linking and/or banner ad functions to include, on at least one web page of the website, a link region and/or a banner ad region for the display of links to and/or banner ads for other websites. The links displayed in the link region of a given website can change as new websites are created using the system **100** by registered users, or as old websites are deactivated. In certain embodiments, a registered user is allowed to change its selections of desired marketing locations after the posting of its website; in such embodiments, it can be the case that a link displayed at a given marketing location is removed from display because the registered user who selected the link changed its preferences. Likewise, the banner ads that are sequentially shown in the banner ad rotation region of a given website can change as new websites are created, old websites are deactivated or marketing location preferences change. System **100** charges the registered user's website a fee for participation in the linking and/or banner ad functions whenever links to the registered user's website are shown on other websites, or whenever the banner ad for the registered user's website is shown on other websites. For the registered user's website to participate in the linking and/or banner ad functions, the registered user must complete the website design process and save the selected locations for links and/or banner ads (as well as, in the case of participation in the banner ad functions, save the banner ad design for the registered user's website) at the server computer **140**. In some embodiments, credit card (and payment) information must be provided by the registered user when the registered user is setting up the linking and/or banner ad rotation functions, i.e., after the registered user specifies the locations at which the registered user desires links and/or banner ads for its website to appear. The amount of payment can depend upon the number of links and/or banner ads to be displayed, i.e., the number of desired marketing locations.

Upon selection of the mail wiz option from the STAY STICKY™ menu **1210**, a MAIL WIZ™ menu **1280** appears, which provides the registered user with a field **1285** for entering a desired quantity of e-mail messages to be sent out, and also provides an e-mail message field **1290** in which the registered user can input a desired e-mail message. Once the

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registered user completes the design of the website, and the website is posted/activated, the system **100** sends the specified e-mail message to other registered users (or their websites), whose e-mail addresses are located in third party user database **160**. In certain embodiments, e-mail messages are only sent to selected locations that are specified by the registered user during development of the website, for example, the locations specified by the registered user in location selection menu **1260**. In other embodiments, e-mail messages are also sent to the e-mail addresses of parties who are not registered users. In still further embodiments, the system **100** determines suggested e-mail addresses based upon the log in information provided by the registered user and the information in third party user database **160**. In the preferred embodiment, the number of e-mail messages that are sent from the registered user's website to other e-mail addresses is recorded in a statistic log, and the number of e-mail messages that are received by the registered user's website is also recorded in the statistic log. Further in the preferred embodiment, the registered user provides payment to the system **100** for the quantity of e-mail messages to be sent as specified on MAIL WIZ™ menu **1280**. System **100** continues to send e-mail messages on behalf of the registered user's website to other e-mail messages until the specified number of e-mail messages has been sent.

Turning to FIG. **13**, the registered user can select e-commerce button **265** to add to its website various features that allow for e-commerce (i.e., allow for the selling of goods and services over the internet). Upon the selecting of e-commerce button **265**, an e-commerce menu **1310** appears. In the preferred embodiment, the registered user can select from two different types of e-commerce features, a standard e-commerce feature **1320** and an auction feature **1330**. Upon selecting the standard e-commerce feature **1320**, the registered user then can select one or more shopping carts from a shopping carts to select list **1325**. Upon selecting the auction feature **1330**, the registered user can select one or more types of auction features from an auction to select list **1335**. After determining the type of e-commerce feature to be implemented on its website, the registered user then can upload (i.e., from a memory device at registered user computer **180**) a picture of the product to be sold on the registered user's website, at product picture field **1340**. Further, in a product description field **1345**, a product price field **1350** and a SKU field **1355**, a registered user can respectively input a description of the product to be sold at its website, the product's price and a SKU number correlating to the product. In the case where an auction feature has been selected, the product price entered in product price field **1350** is a reserve price. Also, in certain embodiments, the creation of an auction feature further requires the input of information, by the registered user, concerning starting and finishing times for the holding of auctions.

Finally, the registered user must input a merchant account identifier in a merchant account field **1360** indicating a merchant account that will apply to sales conducted using the shopping cart/auction of the registered user's website. If a merchant account relationship has not yet been established such that the registered user cannot enter a merchant account identifier, a merchant account information form **1370** appears, at which the registered user can enter necessary information for setting up a merchant account relationship. This information can include, for example, the name of the registered user's business, the address of the business, and the business type, among other types of information. In the preferred embodiments, the merchant account information form **1370** is a standard form that is provided by a credit card and/or

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merchant account provider. The credit card and/or merchant account provider providing the merchant account information form **1370** in certain embodiments pays a licensing or other fee to the system **100** in order to display its merchant account information form using the system. When the registered user has completed filling out the merchant account information form **1370**, the filled out form is sent to the credit card and/or merchant account provider. The merchant account provider eventually responds back to the registered user with follow-up information concerning the setting up of the merchant account. The registered user cannot activate any of the e-commerce functions (i.e., functions employing a shopping cart or auction) without having completed the setting up of a merchant account with a merchant account provider. Once the merchant account is set up, however, the registered user enters the merchant account identification information into field **1360** and the e-commerce functionality can be activated.

Referring to FIG. **14**, the system **100** is also capable of providing several types of assistance to the registered user during design of its website. The registered user can select the examples button **270** to bring up an examples menu **1410**, which in the preferred embodiment lists ten examples **1420** that can be selected by the registered user. Each of the examples **1420**, upon being selected by the registered user, shows how a web page, banner, logo, or other element can be designed using website design plate **210**, STICKY PAD™ **310**, and other features of the system **100**. In the preferred embodiment, selection of an example **1420** produces a visual demonstration of an example website being taken apart and then put back together. While the example website is being put back together, a tutorial program runs that instructs the registered user on operating website design plate **210**, STICKY PAD™ **310**, and other features of system **100** to allow for the creation, saving, and posting/activation of a website using the system. In certain embodiments, the system **100** will conduct contests among registered users concerning the registered users' prowess in designing websites.

The registered user can also select the help/statistics button **275** to bring up a help/statistics menu **1430**. Help/statistics menu **1430** lists four different options that are selectable by the registered user: a document help option **1440**; a tech support option **1450**, a wizard option **1460**, and a size meter option **1470**. Upon the selection of the document help option **1440**, the GUI displays written instructions concerning various features of the system **100**. For example, the GUI can display explanation messages concerning the purposes and operation of the various buttons **215-275** when the registered user selects any of those buttons (or, in certain embodiments, merely positions a cursor or other selection marker over one of those buttons). Also, for example, the GUI can display instructions as to how a web asset can be modified if that web asset is positioned within website design plate **210** or STICKY PAD™ **310**.

With respect to tech support option **1450**, the registered user can reach tech support for the system **100** by telephoning a particular telephone number (i.e., a 900 number), or by sending an e-mail to tech support. Then, by selecting tech support option **1450**, tech support personnel for the system **100** can view the registered user's website online and provide the registered user with any needed website design information or other assistance either by way of telephone or e-mail while viewing the registered user's website online. Upon selection of the wizard option **1460**, a wizard caricature appears that offers helpful hints and suggestions to the registered user during different steps in the website design process. The information provided by the wizard is similar to that

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provided in connection with document help option **1440**, although the text shown is typically in a shortened form so that the text can be provided in a caption along side the wizard caricature. In alternate embodiments, the helpful hints and suggestions from the wizard caricature are verbalized using speech synthesis technology.

The registered user can further select size meter option **1470** to obtain information regarding how well the registered user's website, as currently designed, will perform upon posting. Upon the selection of the size meter option **1470**, a meter box **1480** appears, in which a variety of information regarding the operability of the current website design is provided. In one embodiment, as shown in FIG. **14**, the meter box **1480** includes information regarding each of the size of the entire website currently being designed, the time required to download the entire website via the internet (to a computer accessing the website using a browser) the size of the current web page that is being displayed on website design plate **210**, and the time for downloading that particular web page. Further in the preferred embodiment, each of these types of information is provided for the website when operating on different types of internet systems with different connectivities, such as internet systems using a T-1 communication link, a DSL or ISDN communication link, or modems having operation speeds of 56K, 33.6K or 28.8K. In certain embodiments, the registered user has an option to select the desired/expected connectivity of the website and to obtain information for that connectivity only.

In certain embodiments of the invention, meter box **1480** can contain less or more information concerning the expected operation of the website being designed. For example, in certain embodiments, the meter box **1480** only includes size information. In other embodiments, meter box **1480** includes not only size information regarding the entire website and individual web pages, but also provides a breakdown of the sizes of each web asset or other element on a given web page. In certain embodiments, running meter block **810** displayed in conjunction with STICKY PAD™ **310** contains the same information that is displayed in meter box **1480**. Although in one embodiment, the meter box **1480** is only displayed when the size meter option **1470** is selected, in alternate embodiments, the meter box **1480** (or at least some of the information displayed in meter box **1480**) is always displayed on website design plate **210**. In such embodiments, the information being displayed that corresponds to the particular web page that is being edited varies as the registered user changes from editing one web page to editing a different web page using navigation button **225**. The information can be shown on multiple lines or be provided in a single-line format to save display space. In the preferred embodiment, the information provided in meter box **1480** changes whenever a new web asset or other element is dropped into website design plate **210**.

Further, in the preferred embodiment, the system **100** always monitors the current sizes of the website and web pages that are being designed, and provides a warning message whenever the website as a whole or individual web pages have exceeded maximum limits for size and download times (e.g., "Your site has exceeded download time parameters."). When the website being designed exceeds maximum size and/or download time parameters, the system **100** automatically displays relevant help message to provide the registered user with suggestions for reducing the size and/or download time of the website/web page. These warning and help messages can be provided by the wizard feature discussed above. If the registered user does not heed the warning concerning the size and/or download time of the website/web page, the system **100** automatically restricts the ability of the registered

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user to add additional web assets and other elements to the website/web page and thereby guarantees that the website, when completed, will be within acceptable size and download time guidelines.

At any time during the course of the design of a website using website design plate **210** (assuming the log in process has been completed, as discussed with reference to FIG. **11**), the registered user can select preview button **230** to view the operation of the website in its current state of design. The registered user can view the operation of the website as it would appear using a variety of different internet browsers, e.g., the Netscape Navigator™ browser or the Microsoft Internet Explorer™ browser. Previewing the website does not save the website for activation, but rather gives the registered user a "snapshot" of the website in its current state, and allows the registered user to view the alignment, color schemes and other features of the website before the website is saved and activated. Further, at any time during the design of a website (assuming the log in process has been completed, as discussed with reference to FIG. **11**), the registered user can select save button **218** to save the website in its present form at server computer **140** (specifically at third party user database **160**). If the website design has been completed and the website is ready for submission and activation on the internet, the registered user can provide such an indication (in certain embodiments, an additional submit button is displayed on website design plate **210** to allow the registered user to immediately submit a completed website for activation on the internet).

If the registered user selects the save button **218** but has not yet provided payment information concerning the manner in which the registered user will be paying for its use of system **100**, a payment box **1510** appears. Within payment box **1510**, a message **1520** is provided to the registered user indicating that payment information is necessary (e.g., "Did you forget to pay?") and the registered user is provided with an option **1530** to pay by credit card. When the pay by credit card option **1530** is selected, a credit card information menu **1540** appears, in which the registered user can provide the necessary information for enabling credit card payment to the system **100** from the registered user's credit card. In one embodiment, the registered user must enter its name, credit card number, and expiration date in a name field **1550**, a credit card number field **1560**, and an expiration date field **1570**, respectively. Once the credit card information is received at, and approved by, the system **100**, the registered user can save its website design information. In the preferred embodiment, the registered user provides the same user identification and password information that were provided during the log in process at a user identification field **1580** and a password field **1590**, respectively, for additional security. In addition to requiring credit card information for allowing the saving and submission of website design information by the registered user, the system **100** also requires credit card information to be provided before allowing the registered user to access certain other features. For example, tech support will only be provided when the registered user has provided credit card information or contacts tech support via the 900 number or e-mail. Also, the system **100** does not accept web addresses specified by the registered user for the purpose of creating links or participating in banner ad rotation unless the registered user has provided credit card information.

FIGS. **16A-23** provide flow charts showing exemplary steps of operation of the system **100** as it is used by the registered user to design a website. In particular, the flow charts concern the operation of the GUI, i.e., website design plate **210** and STICKY PAD™ **310**. The flow charts of FIGS.

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16A-22C can be combined together to form a larger collection of steps. Referring to FIGS. 16A and 16B, the operation of the GUI of the system 100 begins with the display of the website design plate 210 on a user interface at step 1602. The user interface can be a computer monitor, a television screen or any other input/output device that includes a display screen that is known in the art. Next, at step 1604, a search request is received at the user interface. At step 1606, the system 100 determines if the party accessing the system has already logged into the system. If the registered party has not already logged in (i.e., the party is a potential customer rather than a registered user), the system proceeds to step 1608, in which a login form such as that discussed with reference to FIG. 11 is displayed. At step 1610, the system 100 receives user information at the user interface (i.e., in the login form). At steps 1612 and 1614, respectively, the user information is transmitted to and saved at a database of the system, i.e., third party user database 160.

Upon completing the log in process (such that the potential customer is now a registered user), or if it was determined in step 1606 that the registered user was already logged in, the system proceeds to step 1616, at which the system accesses a database to obtain information regarding web assets or other elements. The information that is obtained is responsive to the search request entered at step 1604; that is, the information concerns web assets, if the search request was made via fx menu 430, concerns sound elements if the search request was made via sound menu 540 and concerns color elements if the search request was made via color pallet 640. The information concerning the web assets or other elements comes from web assets database 170. At step 1618, the GUI provides a listing of the available web assets or other elements, in fx menu 430, sound menu 540 or color pallet 640 depending upon the type of search request that was received at step 1604. At step 1620, the system 100 receives a selection indication from the registered user at the user interface that indicates a first web asset or other element that the registered user desires to implement in its website. Upon receiving this selection of a web asset or other element, the STICKY PAD™ 310 is displayed at the user interface. At step 1624, any further information that is necessary to display the selected web asset or other element is obtained from web assets database 170, and then, at step 1626, the selected web asset or other element is displayed on the STICKY PAD™ 310. In step 1628, the size of the selected web asset or other element is displayed on the STICKY PAD™ in the running meter block 810, which in alternate embodiments can also display the download time or other information regarding the selected web asset or other element.

At step 1630, the system 100 receives an additional input at the user interface from the registered user. If the additional input is another search request (as in step 1604), the system 100 again accesses web assets database 170 to obtain information regarding available web assets or other elements, at step 1632. At step 1634, the system 100 again provides a listing of available web assets or other elements that is responsive to the search request. At step 1636, the system 100 receives an input from the registered user indicating which of the listed web assets or other elements is desired for implementation in the registered user's website. Then, in step 1638, the system 100 retrieves information concerning the selected web asset or other element. Further, at step 1640, the system 100 receives an additional input from the registered user that is a command indicating where to position the newly selected web asset or other element on the STICKY PAD™ 310. The input can be a command to drag and drop the selected web asset or other element onto the first web asset or other element

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that is already positioned within the STICKY PAD™ 310, or can be merely a command to display the selected web asset or other element at some location within design space 280 of STICKY PAD™ 310. In response to this input command, the displayed contents of the STICKY PAD™ 310 are modified to include the newly selected web asset or other element at step 1642. Upon modifying the displayed contents of the STICKY PAD™ 310, the size of the modified contents of the STICKY PAD™ is displayed (i.e., updated) at the running meter block 810 of the STICKY PAD™, at step 1644. The program then returns to step 1630.

The additional input received at the user interface at step 1630 can also be a command to drop the STICKY PAD™ contents into the website design plate 210. If this occurs, the STICKY PAD™ 310 is removed from the user interface, i.e., is no longer displayed, at step 1646. Then, at step 1648, the STICKY PAD™ contents are displayed in an interactive manner on the website design plate 210. The system 100 then is ready to receive an additional input at the user interface, at step 1650. In certain embodiments in which the GUI can display both website design plate 210 and STICKY PAD™ 310 simultaneously (e.g., on different parts of the display screen of the user interface), the STICKY PAD™ 310 need not be removed from display. Rather, the contents of the STICKY PAD™ 310 need only be moved or copied to the website design plate 210.

Referring to FIG. 17A, if the input received at the user interface at step 1650 is a text input command, the system 100 immediately displays STICKY PAD™ 310 again on the user interface at step 1702. The text input command is a selection of text button 235. Once STICKY PAD™ 310 is displayed, the registered user can input text by typing text at the user interface, which is received by the system 100 at step 1704. The text that is input at the user interface by the registered user is displayed in the STICKY PAD™ 310, at step 1706. Then, at step 1708, the system 100 receives an additional command at the user interface. If the command is to invoke the text editor, i.e., the registered user selects text editor button 345 of STICKY PAD™ 310, the system 100 proceeds to step 1710, and displays text editor options.

At step 1712, the system 100 receives a command concerning the text editor options. If the registered user provides a command to perform a spell check, the system 100 then executes a spell check of the text at step 1714 and displays the spell checked text at step 1716, before returning to step 1708 to receive an additional command. If the received command at step 1712 is to modify one of the font, style, size or color of the text, the system 100 performs the requested modification and then displays the modified text at step 1718 before returning to step 1708 to receive an additional command. The command to modify the font, style, size or color of the text can include a selection of a change font, change style, change size or change color button, followed by a selection of a desired font, style, size or color to be applied to the text being edited. At step 1708, it is also possible to receive a command to drop the STICKY PAD™ contents back into the website design plate 210. If such a command is received, the STICKY PAD™ 310 is removed from the user interface (i.e., is no longer displayed) at step 1720, and then the STICKY PAD™ contents are displayed on the website design plate 210, at step 1722. The program then returns to step 1650 for receipt of an additional input at the user interface.

Referring to FIG. 17B, the additional input received at step 1650 can also be the selection of tables button 255 of the website design plate 210 by the registered user, indicating that the registered user wishes to generate a table or cell. Upon selection of the tables button 255, the system 100 displays the

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options concerning the creation of tables and cells, including their location within a website (i.e., by displaying tables menu 1110), at step 1750. At step 1752, the system 100 receives a selection concerning the tables and cells from the registered user at the user interface. At step 1754, the selected table or cell is displayed on the website design plate 210. Next, at step 1756, a command can be received to modify the position or size of the table or cell. Upon receiving such a command, the table or cell is appropriately adjusted in position and/or size at step 1758. The command to modify the position or size of the table or cell at step 1756 can include a command or selection input concerning the location of the table or cell within the website or on a web page (i.e., by way of locations button 1140). Upon completion of the table or cell, the system 100 returns to step 1650.

Turning to FIGS. 18A and 18B, the additional input received at the user interface at step 1650 can be a save input or a preview input, which the registered user can provide by selecting save button 218 or preview button 230 of the website design plate 210, respectively. Upon receiving the save input, the system 100 determines in step 1802 whether payment has been received from the registered user. If payment has not yet been received from the registered user, the system 100 displays at the user interface an inquiry as to whether payment has been forgotten at step 1804. Upon receiving a pay by credit card input at the user interface, at step 1806, the system displays a credit card information form at step 1808 (i.e., credit card information menu 1540). In step 1810, credit card information is received from the registered user at the user interface and, at step 1812, the system 100 determines whether the information provided is adequate. If the credit card information is inadequate, the system 100 returns to step 1808 and the credit card information form is again displayed. If the credit card information is adequate, the system 100 proceeds to step 1814, in which payment is received from the registered user's credit card by way of a standard e-commerce credit card transaction. Upon receiving payment at step 1814, or having determined that payment was already received at step 1802, the system 100 saves all of the website design information that is currently existing in website design plate 210 at the server computer 140, at step 1816. The saved website design information can then be used to post/activate an operational website on the internet. Upon saving the information, the system 100 returns to step 1650. With respect to FIG. 18B, if the input at step 1650 is a preview input, the system 100 proceeds to step 1818, at which a preview of the website's operation given its current state of development is provided. This allows for the registered user to view a simulation of the operation of its website, before the website is saved or activated on the internet. After providing this preview or simulation, the system 100 returns to step 1650.

Referring to FIGS. 19A and 19B, the additional input received at step 1650 can also be a navigation input, which the registered user provides by selecting navigation button 225 of website design plate 210. Upon receiving the navigation input, the system 100 displays a navigation menu (i.e., navigation menu 1010), and then receives an additional input at the user interface, at steps 1902 and 1904, respectively. If the additional input received at the user interface at step 1904 is a selection of a page name field corresponding to pages 1-10 (i.e., fields 1015), the system 100 receives page name information from the registered user at step 1906 and then displays the page name information in the page name field at step 1908, before returning to step 1904 to receive an additional input at the user interface. If the input received at step 1904 is an add new page command (i.e., provided by selecting add new page button 1020), the system 100 receives page identi-

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fication information concerning the newly added page at step 1910 and displays the new page number and page identification information on the navigation menu at step 1912 before returning to step 1904.

If the input at step 1904 is a selection of the scroll menu (i.e., provided by selecting scroll menu button 1030), the system 100 displays suggested page names at step 1914, and then receives a selection of one or more of the suggested page names from the registered user at step 1916 before returning to step 1904. If the input received at step 1904 is a selection of the navigation locations menu (i.e. selection of navigation locations button 1050), the system 100 displays a list of locations within a web page at which navigation information can be displayed, at step 1918. Upon receiving a selected location for the navigation information from the registered user at step 1920, the system returns to step 1904. Further, if the input received at step 1904 is a selection of one of the displayed page numbers on the navigation menu 1010, the display of the navigation menu is ended at step 1922, and the selected web page is displayed on the website design plate 210 at step 1924. The system 100 then returns to step 1650.

Referring to FIGS. 20A and 20B, the registered user can provide a STAY STICKY™ input at step 1650 by selecting STAY STICKY™ button 260. Upon receiving such an input, the system 100 displays STAY STICKY™ menu 1210 at step 2002 and then receives a STAY STICKY™ selection at step 2004. If the received selection is for the smart agent feature, the system 100 then receives an input concerning the smart agent feature at smart agent menu 1220, at step 2006. If the received input is a request for suggested marketing locations, the system 100 checks third party user database 160 to determine whether suggested marketing locations had previously been determined, at step 2008. If suggested marketing locations had been previously determined, these suggested marketing locations are then displayed at the user interface, at step 2014. If suggested marketing locations had not been previously determined, the system 100 accesses third party user database 160 to obtain the registered user's log in information, and then determines suggested marketing locations based upon this log in information, at steps 2010 and 2012, respectively. Once the suggested marketing locations are determined, these suggested marketing locations are then displayed at step 2014. Following display of the suggested marketing locations at step 2014, the system 100 returns to step 2004.

If the STAY STICKY™ selection received at step 2004 is to create links, the system 100 then receives marketing location selections at the user interface at step 2018. The marketing location selection information can be provided by the registered user at location selection menu 1260. Upon receiving the marketing location selection information, the marketing location selection information is stored at third party user database 160 at step 2020. This stored information is later used to generate links at the selected marketing locations (i.e., websites) when the registered user's website is activated. The system 100 then proceeds to step 2022, at which the system determines whether a reciprocal link site has already been created in the registered user's website, for displaying links to other websites. If a link site has not yet been created, the system creates a link site on the registered user's website, at step 2024 before returning to step 1650. Otherwise, the system 100 immediately returns to step 1650.

If the STAY STICKY™ selection received at step 2004 is for banner ad rotation, the system 100 proceeds to step 2026, at which the system determines whether a banner ad has already been created by the registered user. If a banner ad has not yet been created, the system 100 proceeds to step 2028, in

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which the system displays at the user interface a message indicating that a banner ad needs to be created by the registered user in order to participate in banner ad rotation, before returning to step 1650. A banner ad can then be created by the registered user using the capabilities of the website design plate 210 and the STICKY PAD™ 310, including the search capabilities. If it is determined at step 2026 that a banner ad has already been created by the registered user, the system 100 proceeds to step 2030, at which it receives marketing location selection information at the user interface. The marketing location selection information can be provided at location selection menu 1260 or a similar menu, and can include marketing location selections that were determined by the system at step 2012.

At step 2032, the marketing location selection information provided from the registered user is stored in third party user database 160, where it can be later accessed upon activation of the registered user's website. The system 100 then proceeds to step 2034, at which it determines whether a reciprocal banner ad site has already been created on the registered user's website, so that banner ads from other websites can be displayed on the registered user's website once it is activated. If a banner ad site has not yet been created, the system 100 creates a banner ad site at step 2036 before returning to step 1650. Otherwise, if a banner ad site has already been created, the system 100 immediately returns to step 1650. Upon activation of the registered user's website, the registered user's website can display an unlimited number of banner ads from other websites on its reciprocal banner ad site, and the system 100 also displays the registered user's banner ad at the marketing locations (websites) that the registered user specified at step 2030.

If, at step 2004, the STAY STICKY™ selection is for the MAIL WIZ™ feature, the system 100 proceeds to step 2038 and displays MAIL WIZ™ menu 1280. The system 100 then receives an input from the registered user concerning the number of parties that the registered user desires to be included on the registered user's e-mail list, at step 2040. Further, at step 2042, the system 100 receives an input at the user interface concerning the registered user's desired e-mail message. All of the received information is then saved in third party user database 160, before the system 100 returns to step 1650. Upon activation of the registered user's website, e-mail messages are sent to other registered user's websites, and the number of e-mail messages sent is monitored by the system 100. Although not shown in FIGS. 20A and 20B, in some embodiments credit card information (and payment) must be received by the system 100 in order to set up and activate the STAY STICKY™ features, i.e., banner ad rotation, links creation, and MAIL WIZ™. In such embodiments, the system 100 performs steps 1808-1814 (shown with respect to FIG. 18A) during or immediately following its performance of steps 2018-2024, 2026-2036 and 2038-2044 concerning links creation, banner ad rotation and MAIL WIZ™, respectively.

Referring to FIGS. 21A and 21B, the registered user can provide an e-commerce input at step 1650 by selecting e-commerce button 265 from website design plate 210. Upon receiving the e-commerce input, the system 100 displays e-commerce menu 1310, at step 2102. The system 100 then receives at step 2104 an input from the registered user concerning the desired type of e-commerce. If the received input indicates that the registered user desires to employ a standard e-commerce arrangement involving a shopping cart, the system 100 displays a list of available shopping cart types at step 2106. The system then receives a selection of a type of shopping cart from the registered user at step 2108, before proceeding to step 2114. If the received input at step 2104 is for

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an e-commerce arrangement involving an auction, the system 100 displays a list of available auction types at step 2110, and then receives a selection of a type of auction from the registered user at step 2112 before proceeding to step 2114. At step 2114, the system 100 uploads a product picture provided from the registered user, i.e., from the hard drive of the registered user computer 180. Then, the system 100 further receives inputs concerning the product description, the product price and the product SKU number at the user interface, at steps 2116, 2118, and 2119, respectively. If the e-commerce arrangement selected by the registered user involves an auction, the product price information received from the registered user at step 2118 concerns a reserved price.

Next, at step 2120, the system 100 determines whether merchant account information has already been provided from the registered user. If merchant account information has not yet been provided, the system 100 displays merchant account information form 1370, at step 2122. Upon receiving merchant account information at the user interface from the registered user at step 2124, the system 100 then sends the merchant account information to the merchant account vendor for processing at step 2126, before returning to step 1650. Although, because the registered user has not yet concluded its merchant account arrangement, the system 100 cannot finalize the registered user's e-commerce arrangement, the information provided by the registered user in steps 2104 to 2119 can be saved and utilized again once the registered user's merchant account arrangement has been finalized. If, at step 2120, it is determined that the merchant account information has already been provided by the registered user, the system 100 receives a merchant account identification number or other identifier at the user interface, at step 2128, and then proceeds to display the finalized shopping cart or auction feature at website design plate 210. The system 100 then returns to step 1650.

Turning to FIG. 22A, the registered user can provide an examples input by selecting examples button 270 from website design plate 210. Upon such a selection, the system 100 displays an examples menu at the user's interface, at step 2124. The system 100 then receives an example selection by the registered user at the user interface, at step 2226, and then displays the selected example, at step 2228, before returning to step 1650. With respect to FIG. 22B, if the registered user provides a help/statistics input by selecting help/statistics button 275 of the web design plate 210 at step 1650, the system 100 proceeds to display help/statistics menu 1430, at step 2202. The system 100 then receives a help/statistics selection at step 2204. If the help/statistics selection is a document help input, the system 100 accesses programming database 190 to obtain relevant written help instructions, at step 2206, and then displays the written help instructions at the user interface, at step 2208, before returning to step 1650. If the received help/statistics selection concerns tech support, the system 100 displays a message indicating that tech support can be obtained either by sending an e-mail message or by telephone, at step 2210. The system 100 then provides the registered user with an option to proceed with tech support, which option must be selected by the registered user in order for a tech support specialist to view the current status of the registered user's GUI and provide assistance, at step 2211. Once assistance has been provided, the system 100 returns to step 1650.

If the received help/statistics selection concerns a wizard input, as shown in FIG. 22C, the system 100 displays the wizard caricature at the user interface, at step 2212. The system 100 then accesses programming database 190 to obtain any relevant wizard suggestions, at step 2214, and then

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displays the relevant wizard suggestions, at step 2216, before returning to step 1650. If the help/statistics selection received at step 2204 is a size meter input, then the system calculates size and download time parameters for the registered user's website, as well as for the current web page being displayed by website design plate 210, at step 2218. Then, at step 2220, the system 100 displays at the user interface meter box 1480, which shows the size and download time parameters for the registered user's website and the currently displayed web page, before returning to step 1650.

Turning to FIG. 23, an additional flow chart is provided showing operation of the system 100 when the registered user is returning to the system to complete a website design that was previously begun. At step 2302, website design plate 210 is provided at the user interface. If the system 100 determines that the registered user's website in its current state of development has more than one web page, at step 2304, the system 100 displays navigation menu 1010 at step 2306. The system 100 then receives a selection of one of the web page numbers displayed on navigation menu 1010, at step 2308. Upon receiving a selected web page number, the system 100 removes navigation menu 1010 from the user interface, at step 2310, and displays the one or more web assets and other elements of the selected web page on the website design plate 210, at step 2312. Further, if the system 100 determines, at step 2304, that the registered user's website in its current state of development has only web page, the system displays the one or more web assets or other elements of that web page on the website design plate 210, at step 2312.

Next, at step 2314, the system 100 receives an edit command provided by the registered user by selecting edit button 220. Upon receiving the edit command, the system 100 causes each of the web assets and other elements that are displayed on the website design plate 210 to become interactive, at step 2316. The system 100 then receives a selection of one or more of the web assets or other elements displayed on the website design plate, at step 2318. In response to this selection, the system 100 displays STICKY PAD™ 310 on the user interface, at step 2320, and further displays the selected web asset or other element on the STICKY PAD™ as the STICKY PAD™ contents, at step 2322. At step 2324, the system 100 receives a command to modify the selected web asset or other element displayed within STICKY PAD™ 310. This command can involve adding additional web assets, sounds or colors to the selected web asset or to the design space 280 surrounding the selected web asset, as well as involve moving the selected web asset within design space 280 or resizing the selected web asset, among other modifications.

At step 2326, the modified web asset or other element, or modified contents of the STICKY PAD™ 310, are displayed within the STICKY PAD™. At step 2328, the system 100 receives a command to drop the contents of the STICKY PAD™ 310 into the website design plate 210. Next, at step 2330, the STICKY PAD™ 310 is removed from the user interface (i.e., is no longer displayed) and the contents of the STICKY PAD™ 310 are moved onto the website design plate 210, at step 2332. The design of the registered user's website can continue with the receiving of additional inputs from the registered user at the user interface, at step 2334.

While the foregoing specification illustrates and describes the preferred embodiments of this invention, it is to be understood that the invention is not limited to the precise construction herein disclosed. The invention can be embodied in other specific forms without departing from the spirit or essential attributes. Accordingly, reference should be made to the fol-

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lowing claims, rather than to the foregoing specification, as indicating the scope of the invention.

What is claimed is:

1. A method, within and by a computer hardware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising:

receiving, from a first computer associated with the first user, a first indication to opt into a reciprocal linking arrangement;

receiving, from a second computer associated with the second user, a second indication to opt into the reciprocal linking arrangement;

establishing, within a database associated with the computer hardware system, the reciprocal linking arrangement based upon both the first and second users opting to participate in the reciprocal linking arrangement;

including, within the second web page and based upon the reciprocal linking arrangement, a second functional identification element associated with the first entity; and

including, within the first web page and based upon the reciprocal linking arrangement, a first functional identification element associated with the second entity, wherein

the second functional identification element includes a link to the first web page, and
the first functional identification element includes a link to the second web page.

2. The method of claim 1, wherein

the first and second users are both registered users with the computer hardware system.

3. The method of claim 1, wherein

the first indication identifies the second web page of the second user.

4. The method of claim 1, further comprising

receiving, from a third user, a request for the first web page; dynamically generating the first web page; and

serving, to the third user, the dynamically-generated first web page.

5. The method of claim 1, wherein

the first web page includes one or more web pages.

6. The method of claim 1, further comprising

including, within the first web page, a web asset provided by a third party separate from the computer hardware system.

7. The method of claim 6, wherein

the web asset is a functional application.

8. The method of claim 1, further comprising

providing, to the first user, a plurality of recommended web pages associated with the computer hardware system.

9. The method of claim 8, wherein

the first indication identifies one of the plurality of recommended web pages.

10. The method of claim 1, wherein

the second functional identification element includes an image.

11. A webpage implementation server system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising:

a database storing information associated with the first and second web pages;

a computer hardware system configured to perform:

receiving, from a first computer associated with the first user, a first indication to opt into a reciprocal linking arrangement;

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receiving, from a second computer associated with the
second user, a second indication to opt into the recip-
rocal linking arrangement;
establishing, within the database, the reciprocal linking
arrangement based upon both the first and second
users opting to participate in the reciprocal linking
arrangement;
including, within the second web page and based upon
the reciprocal linking arrangement, a second func-
tional identification element associated with the first
entity; and
including, within the first web page and based upon the
reciprocal linking arrangement, a first functional
identification element associated with the second
entity, wherein
the second functional identification element includes a link
to the first web page, and
the first functional identification element includes a link to
the second web page.
12. The server system of claim 11, wherein
the first and second users are both registered users with the
computer hardware system.
13. The server system of claim 11, wherein
the first indication identifies the second web page of the
second user.

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14. The server system of claim 11, wherein the computer
hardware system is further configured to perform
receiving, from a third user, a request for the first web page;
dynamically generating the first web page; and
serving, to the third user, the dynamically-generated first
web page.
15. The server system of claim 11, wherein
the first web page includes one or more web pages.
16. The server system of claim 11, further comprising
including, within the first web page, a web asset provided
by a third party separate from the computer hardware
system.
17. The server system of claim 16, wherein
the web asset is a functional application.
18. The server system of claim 11, wherein the computer
hardware system is further configured to perform
providing, to the first user, a plurality of recommended web
pages associated with the computer hardware system.
19. The server system of claim 18, wherein
the first indication identifies one of the plurality of recom-
mended web pages.
20. The server system of claim 11, wherein
the second functional identification element includes an
image.

* * * * *

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,768,760 B1
APPLICATION NO. : 14/191746
DATED : July 1, 2014
INVENTOR(S) : Thomas L. DiStefano, III

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It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims

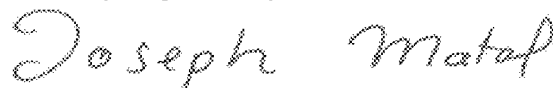
Column 28, Line 20: delete “with the first entity” and replace with --with the first user--;

Column 28, Line 24: delete “with the second entity” and replace with --with the second user--.

Column 29, Lines 10-11: delete “with the first entity” and replace with --with the first user--;

Column 29, Lines 14-15: delete “with the second entity” and replace with --with the second user--.

Signed and Sealed this
Twenty-eighth Day of November, 2017



Joseph Matal
*Performing the Functions and Duties of the
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office*

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CERTIFICATE OF SERVICE

I, Meredith M. Addy, a member of the Bar of this Court, hereby certify that on March 27, 2019, a copy of REVISED OPENING BRIEF OF APPELLANT DISTEFANO PATENT TRUST III was served by electronic via CM/ECF on counsel of record:

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief was printed using a 14 point Century font.

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B). This brief contains 12,027 words, excluding the parts of the brief exempted under the Federal Rule of Appellate Procedure 32(a)(7)(B)(iii). This certificate was prepared in reliance on the word count of the word-processing system (Microsoft® Word for Mac, Version 16.23) used to prepare the brief.

March 27, 2019

By: /s/ Meredith M. Addy
Meredith M. Addy