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Paper 37
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

B.E. TECHNOLOGY, L.L.C.,
Patent Owner.

Case IPR2014-00040
Patent 6,771,290 B1

Before SALLY C. MEDLEY, KALYAN K. DESHPANDE, and LYNNE E. PETTIGREW, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6(c). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, Petitioner has shown by a preponderance of the evidence that claims 1–3 of U.S. Patent No. 6,771,290 B1 (Ex. 1001, "the '290 patent") are unpatentable.

A. Procedural History

Petitioner, Microsoft Corporation, filed a corrected Petition for *inter partes* review of claims 1–3 of the '290 patent. Paper 5 ("Pet."). Patent Owner, B.E. Technology, L.L.C., did not file a Preliminary Response. On April 9, 2014, pursuant to 35 U.S.C. § 314, we instituted an *inter partes* review for claims 1–3 of the '290 patent on the ground of anticipation by Kikinis[1] under 35 U.S.C. § 102(b). Paper 12.

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 27, "PO Resp."), and Petitioner filed a Reply to the Patent Owner Response (Paper 29, "Reply"). On December 11, 2014, we held a consolidated hearing for five *inter partes* reviews involving the '290 patent.[2] A transcript of the oral hearing is included in the record. Paper 36 ("Tr.").

B. Related Proceedings

The parties indicate that the '290 patent is at issue in *B.E. Technology, L.L.C. v. Microsoft Corp.*, No. 2:12-cv-02829 (W.D. Tenn.), and numerous other district court cases filed by Patent Owner against other defendants. Pet. 1; Paper 7, 1–3 (Patent Owner's Mandatory Notices). As noted, the '290 patent is the subject of four other *inter partes* reviews: IPR2014-00029, IPR2014-00031, IPR2014-00033, and IPR2014-00044.

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[1] PCT International Publication Number WO 97/09682, published Mar. 13, 1997 (Ex. 1005) ("Kikinis").

[2] *Sony Mobile Commc'ns (USA) Inc. v. B.E. Tech., L.L.C.*, Case IPR2014-00029; *Google Inc. v. B.E. Tech., L.L.C.*, Case IPR2014-00031; *Google Inc. v. B.E. Tech., L.L.C.*, Case IPR2014-00033; *Microsoft Corp. v. B.E. Tech., L.L.C.*, Case IPR2014-00040; *Samsung Elecs. Am., Inc. v. B.E. Tech., L.L.C.*, Case IPR2014-00044.

C. The '290 Patent

The '290 patent describes a system that provides remote storage of user-specific files and resources that can be accessed over a network, such as the Internet. Ex. 1001, 5:43–50, 12:45–50. The disclosed system includes client computers, each running a client software application that provides access via a network to an advertising and data management (ADM) server. *Id.* at 11:42–49. The server includes a user database that stores a user profile and a user library for each user. *Id.* at 12:45–13:12. The user profile is accessed by the client software application using a unique identifier for the user via a login. *Id.* at 12:52–56. The user profile may contain user-specific customized settings for the operating system used by the client computer. *Id.* at 12:56–58. Additionally, the user profile may contain "bookmarks, shortcuts, and other such links to files and information resources accessible via" the network. *Id.* at 12:67–13:3. The user library "enables the user to store files (documents, executable programs, email messages, audio clips, video clip, or other files) that can then be accessed from any client computer." *Id.* at 13:4–7. By storing user profiles and user libraries on the server, users "can have world-wide access to their preferences, addresses, bookmarks, email, and files without having to physically transport them from one place to another." *Id.* at 13:9–12.

The '290 patent further describes a user interface on a client computer, provided by a graphical user interface (GUI) module. *Id.* at 13:41–43. The user interface comprises an application window with selectable items such as icons. *Id.* at 13:43–53. As shown in Figure 5b, the application window may include "icons that represent various files and links to information resources." *Id.* at 15:48–53.

Figure 5b of the ’290 patent is reproduced below:

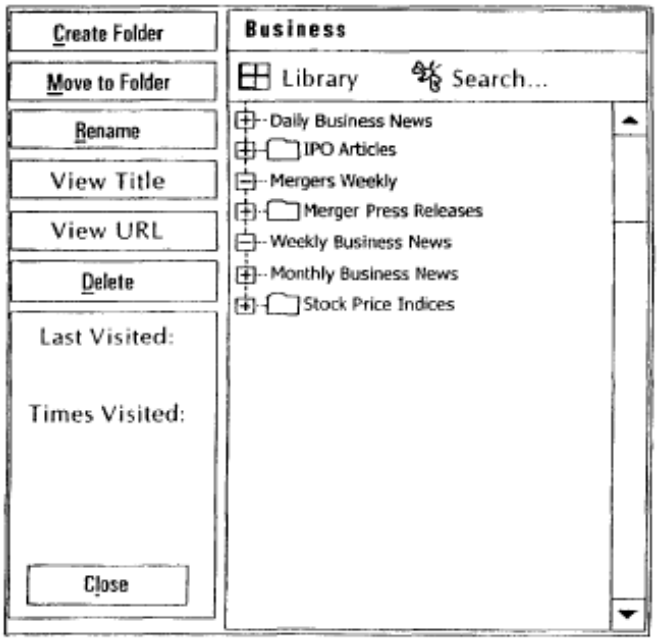


FIG. 5b

Figure 5b illustrates an application window with icons representing files and links to information resources.

The application window in Figure 5b includes a library icon, which, when selected, provides a display as shown in Figure 5c, reproduced below.

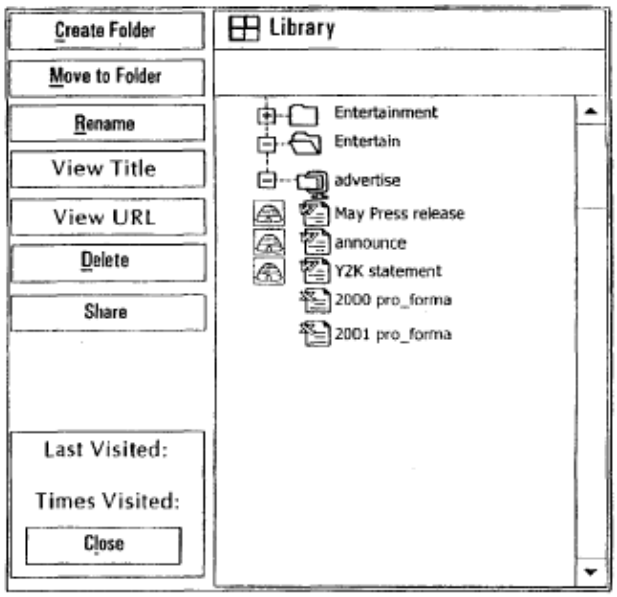


FIG. 5c

Figure 5c illustrates an application window displaying files in a user library.

The display in Figure 5c provides a list of all files contained in a user library. *Id.* at 15:55–56. From this window, "the user can access any of the files contained in his or her user library." *Id.* at 15:56–57.

D. Illustrative Claims

Petitioner challenges all claims (claims 1–3) of the '290 patent. Independent claims 1 and 2 are illustrative:

> 1. A computer-readable memory for use by a client computer to provide a user of the computer with an integrated, customized, graphical user interface to a plurality of computer resources, the computer-readable memory comprising:
>
> a non-volatile data storage device;

a program stored on said non-volatile data storage device in a computer-readable format;

said program being operable upon execution to display a graphical user interface comprising an application window separated into a number of regions;

a first one of said regions including a number of graphical objects, at least some of which are each representative of a different software application and are selectable by the user via an input device, wherein said program is operable upon selection of one of said graphical objects to initiate execution of the software application associated therewith;

a second one of said regions including a number of user-selectable items, at least some of which are each associated with a different data set, said data sets each comprising a number of links to different information resources, wherein said program is operable in response to selection of at least one of said items to provide the user with access to its associated data set;

said program including a login module that is operable upon execution to identify the user of the computer; and

said program being operable following execution of said login module to provide an identification of the user to the server and to receive from the server a user profile containing one or more user data sets and user links to information resources, with said program further being operable to display in one of said regions a user-selectable item for each of said user data sets and each of said user links.

2. A computer-readable memory for use by a client computer in conjunction with a server that is accessible by the client computer via a network, the server storing a user profile and user library for each of a number of different users, with the user library containing one or more files and the user profile containing at least one user link that provides a[] link to one of the files in the user library, the computer-readable memory comprising:

a non-volatile data storage device;

> a program stored on said non-volatile data storage device in a computer-readable format;
>
> said program being operable upon execution to display a graphical user interface comprising an application window having a number of user-selectable items displayed therein, wherein each of said items has associated with it a link to an information resource accessible via the network and wherein said program is operable upon execution and in response to selection by a user of one of said items to access the associated information resource over the network;
>
> said program being operable upon execution to receive from [the] server one of the user profiles and to display a user-selectable item for user links contained within the user profile, said program further being operable in response to selection by a user of one of the user links to access the file associated with the selected user link from the user library associated with the received user profile.

Id. at 38:30–40:11.

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, we construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b). Patent Owner contends the Board's adoption of the "broadest reasonable construction" standard exceeded the Office's rulemaking authority and requests that we construe the claims in this case in a manner consistent with claim construction that would be applied in the district court. PO Resp. 43–45. Recently, however, the United States Court of Appeals for the Federal Circuit held that "Congress implicitly adopted the broadest reasonable interpretation standard in enacting the [America Invents Act]." *In re Cuozzo Speed Techs., LLC*, 778 F.3d 1271, 1281 (Fed. Cir. 2015). The court further

held that even if the broadest reasonable interpretation standard were not incorporated into the *inter partes* statutory provisions, the Office properly adopted the standard by regulation under the rulemaking authority provided by 35 U.S.C. § 316. *Id.* at 1282. Accordingly, we construe the claims in this proceeding using the broadest reasonable construction standard.

Consistent with the broadest reasonable construction standard, claim terms are presumed to have their ordinary and customary meaning, as understood by a person of ordinary skill in the art, in the context of the entire patent disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). An inventor may provide a meaning for a term that is different from its ordinary meaning by defining the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

1. Claim Terms Defined in the '290 Patent

The '290 patent recites explicit definitions for many terms. In the table below, we construe claim terms relevant to our decision in accordance with the definitions provided in the '290 patent, which are set forth in the written description with reasonable clarity, deliberateness, and precision.

Claim Term	Construction
data set	"A group of data items; for example, links, keywords, or entries in an address book." Ex. 1001, 4:18–19.
file	"Any digital item, including information, documents, applications, audio/video components, and the like, that is stored in memory and is accessible via a file allocation table or other pointing or indexing structure." Ex. 1001, 4:25–28.
information resource	"A source of information stored on a server or other computer that is accessible to other computers over a network." Ex. 1001, 4:33–35.
link	"A data item that identifies the location or address of a program or information resource." Ex. 1001, 4:39–40.[3]
non-volatile data storage device	"A memory device that retains computer-readable data or programming code in the absence of externally-supplied power, including such things as a hard disk or a floppy disk, a compact disk read-only memory (CDROM), digital versatile disk [(]DVD), magneto-optical disk, and so forth." Ex. 1001, 4:46–51.
profile	"User-specific information relating to an individual using a computer." Ex. 1001, 4:52–53.

2. Region

Claim 1 recites "an application window separated into a number of regions," and provides further limitations regarding first and second regions.

[3] The '290 patent further provides: "A URL [i.e., a uniform resource locator] is a link, as is a path and filename of an information resource." Ex. 1001, 4:40–41. We consider these to be examples of a "link," not part of the definition, and, therefore, not part of our construction of the claim term.

Ex. 1001, 38:40–56. The '290 patent does not provide an explicit definition for "region." Patent Owner submits that "region" should be construed as "a non-overlapping part of an application window that is distinct or separate from other parts of the application window wherein each part is characterized by the presence of related functions or features that are different from the functions or features of another part." PO Resp. 20. Petitioner responds that this construction is unreasonable and inconsistent with how a person of ordinary skill in the art would understand the term. Reply 11.

In support of its proposed construction, Patent Owner cites a passage from the written description describing one embodiment of an application window with a number of regions, including a title bar, a pull-down menu, a toolbar of menu icons, a URL text field, a toolbar containing application icons, a banner advertising region, and a toolbar containing bookmark category icons. PO Resp. 21–22 (citing Ex. 1001, 13:43–58). According to Patent Owner, the described regions are "separate or distinct," with each region being "characterized by related functions or features." *Id.* at 22.

We are not persuaded that "region" should be interpreted as narrowly as Patent Owner suggests. An ordinary meaning of "region" is a "large, usually continuous segment of a surface or space; area."[4] Petitioner's expert, Dr. Henry Houh, testified that a person of ordinary skill in the art would understand a "region" to be "an area on the screen," which is consistent with that ordinary meaning. Ex. 1017, 136:13–22. The portion of the written description relied upon by Patent Owner does not define the claim term "region," but merely provides examples of regions in one

[4] THE AMERICAN HERITAGE DICTIONARY 1520 (3d ed. 1992).

embodiment of an application window. Further, Patent Owner's proposed construction depends on Patent Owner's own characterization of those examples, rather than any language in the '290 patent itself. Thus, Patent Owner has not shown that "region" should be given any meaning other than its ordinary meaning. Accordingly, the broadest reasonable construction of "region," in the context of the '290 patent, is simply an "area."

3. User library

Claim 2 recites a "server storing a . . . *user library* for each of a number of different users, with the user library containing one or more files." Ex. 1001, 39:3–5 (emphasis added). Claim 2 further provides that files in the user library are accessed via user links in a user profile. *Id.* at 39:6–7, 40:8–11. Although the '290 patent does not provide an explicit definition of "user library," it provides the following description: "[T]he User Database 46 of ADM server 22 can include a *user library* that enables the user to store files (documents, executable programs, email messages, audio clips, video clips, or other files) that can then be accessed from any client computer 40." *Id.* at 13:3–7 (emphasis added). The written description of the '290 patent further explains that a user library is "used to store [a user's] individual files and resources that the user wishes to be able to access from anywhere on the network." *Id.* at 5:56–58.

An ordinary meaning of "library" in the context of electronic document storage is a "collection of software or data files,"[5] and, thus, a "user library" is a "collection of a user's software or data files." In view of this ordinary meaning and the claims and written description of the

[5] *See* MICROSOFT COMPUTER DICTIONARY 309 (5th ed. 2002).

'290 patent, the broadest reasonable construction of "user library" consistent with its use in the '290 patent is "a collection of an individual's stored files."

B. Asserted Ground of Anticipation by Kikinis

Petitioner contends that claims 1–3 are unpatentable under 35 U.S.C. § 102(b) as anticipated by Kikinis, relying on declaration testimony of Dr. Houh. Pet. 7–18 (citing Ex. 1003). Patent Owner responds, relying on declaration testimony of Dr. Cory Plock. PO Resp. 10–43 (citing Ex. 2001).[6] Having considered the parties' contentions and supporting evidence, we determine that Petitioner has demonstrated by a preponderance of the evidence that claims 1–3 are anticipated by Kikinis.

1. Summary of Kikinis

Kikinis describes a document management system that provides for remote storage and retrieval of electronic documents. Ex. 1005, Abstract, 1:7–9. Figure 2, reproduced below, illustrates Kikinis's electronic document system.

[6] The Patent Owner Response erroneously cites Exhibit 2002 as Dr. Plock's Declaration. Dr. Plock's Declaration has been entered as Exhibit 2001, whereas Dr. Plock's curriculum vitae has been entered as Exhibit 2002. We interpret all citations to Exhibit 2002 in the Patent Owner Response to be citations to Exhibit 2001.

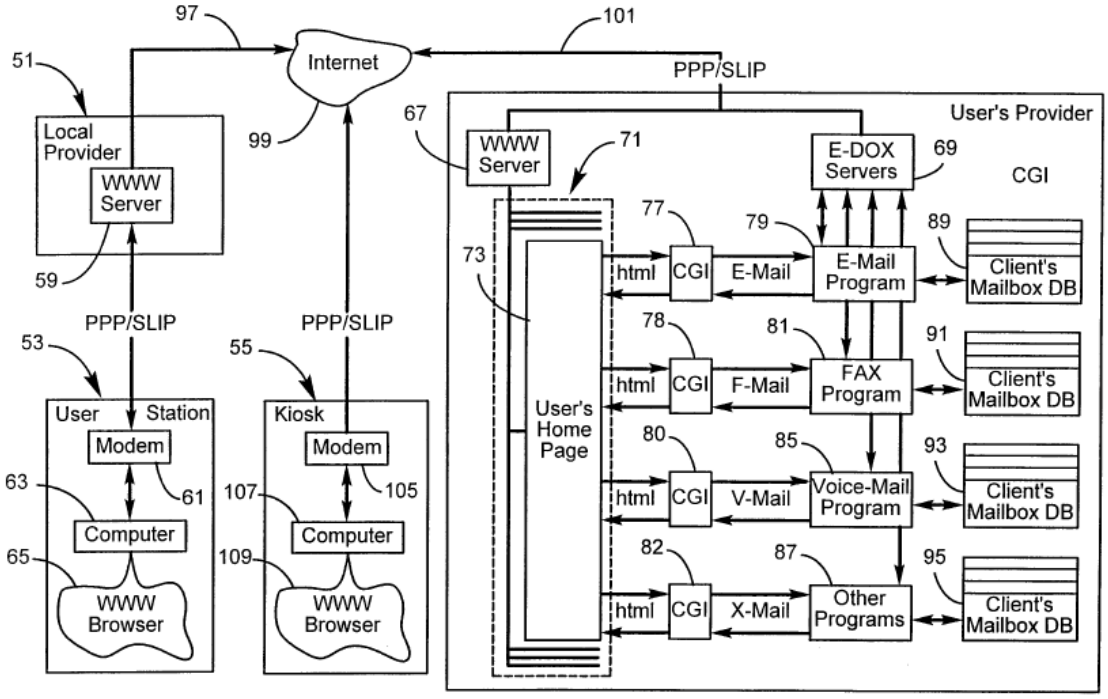


Fig. 2

As shown in Figure 2, Kikinis discloses user station 53 with a web browser that allows a user to access, via the Internet, servers provided by a remote Internet service provider (ISP), labeled "User's Provider" in the figure. *Id.* at 6:11–14, 6:24–26. In the embodiment shown in Figure 2, the remote ISP includes web server 67 and a set of electronic document servers 69, all of which have access to the Internet. *Id.* at 6:24–27.

Each electronic document server 69 runs software that supports a specific application. *Id.* at 6:27–29. As shown in Figure 2, examples include e-mail program 79, fax program 81, voice-mail program 85, and other programs 87, which provide access to other electronic documents. *Id.* at 6:29–31. Web server 67 stores a set of databases 71, each of which is associated with a different user. *Id.* at 6:32–35. Each database set 71 includes home page 73 that is individualized to a specific user and provides links to various lower-order databases maintained by electronic document

server 69 for each user, such as e-mail database 89, fax database 91, voice-mail database 93, and other electronic documents in database 95. *Id.* at 6:35–7:4. A user may be required to provide a password and user name to gain access to home page 73 of an electronic document database. *Id.* at 8:21–24.

A user who wishes to access electronic documents stored on an electronic document server invokes the web browser at a user station. *Id.* at 7:17–29. Figure 3 of Kikinis, reproduced below, illustrates a series of web browser windows for accessing electronic documents.

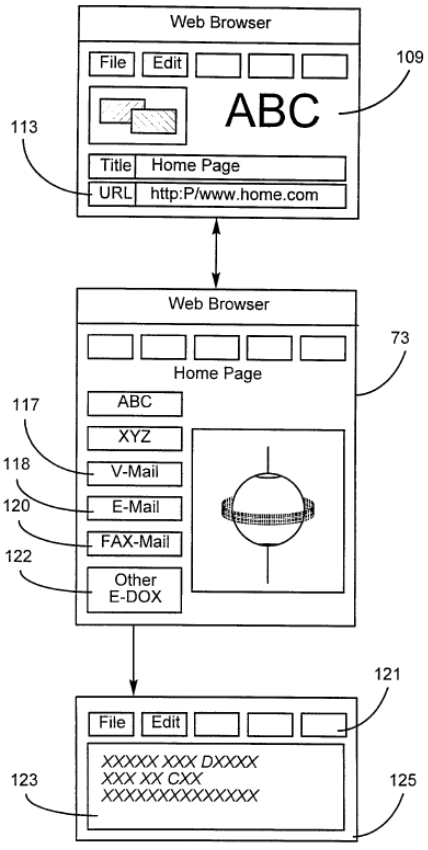


Fig. 3

As shown in Figure 3, a user enters a URL for his home page in field 113. *Id.* at 7:29–31. Home page 73 is retrieved from the remote server and displayed as a graphical user interface to data and other web

destinations, with on-screen links to the user's electronic documents stored on the electronic document server. *Id.* at 7:31–8:1. For example, as shown in Figure 3, home page 73 provides links to the user's voice-mail (button 117), e-mail (button 118), faxes (button 120), and other electronic documents (button 122). *Id.* at 8:2–13. A user also may use home page 73 to link to other databases, "such as a personal multi-lingual dictionary featuring pronunciation, a spelling checker, or a thesaurus; or indeed, almost any other sort of digital data or control routines." *Id.* at 8:14–18.

2. Claims 2 and 3

Independent claim 2 of the '290 patent is directed to a computer-readable memory for use by a client computer in conjunction with a server that is accessible by the client via a network and stores a user profile and a user library containing one or more files. Ex. 1001, 39:1–5. The computer-readable memory on the client includes a "program stored on [a] non-volatile data storage device." *Id.* at 39:10–11. The program is, among other things, "operable upon execution to receive from [the] server one of the user profiles and to display a user-selectable item for user links contained within the user profile," and "operable in response to selection by a user of one of the user links to access the file associated with the selected user link from the user library associated with the received user profile." *Id.* at 40:3–11. Claim 3 depends from claim 2 and specifies that the program uses a browser. *Id.* at 40:13–17.

Petitioner provides detailed analysis showing where Kikinis describes each limitation of claims 2 and 3. Pet. 13–18. In particular, Petitioner asserts that Kikinis discloses the recited "program" (a web browser on a user station), "user library" (user-specific databases, such as an e-mail database, a

fax database, a voice-mail database, and an electronic document database, all of which contain user-specific files), and "user profile" (home page) with links to the user's files. *Id.* at 13–14 (citing Ex. 1003 ¶¶ 115–127, 131, 154–161). Patent Owner argues that Kikinis fails to describe (a) a program stored on a non-volatile data storage device that performs the functions recited in claim 2, (b) a file associated with a selected user link, and (c) a user profile. PO Resp. 1–5, 10–18, 34–42. Patent Owner contends that Kikinis does not anticipate claim 3 for the same reasons provided for claim 2. *Id.* at 42–43.

Having considered the parties' contentions and supporting evidence, we determine that Petitioner has demonstrated by a preponderance of the evidence that Kikinis anticipates claims 2 and 3 of the '290 patent. For the reasons discussed below, we are not persuaded by Patent Owner's contentions.

a. Program stored on a non-volatile data storage device

Patent Owner contends that Kikinis does not disclose a program stored on a client that performs the functions of a "program" as recited in claim 2. PO Resp. 10–18. Specifically, Patent Owner argues that Kikinis discloses a system that provides *indirect* access to electronic documents because it requires programs remotely stored on a server to access remotely stored electronic documents. *Id.* at 11. For example, each electronic document server shown in Figure 2 of Kikinis runs software that supports a specific application, such as an e-mail program or a voice-mail program. *Id.* at 11–12 (citing Ex. 1005, 6:27–31). Patent Owner further submits that Kikinis's web browser, although stored on a non-volatile storage device on a client, does not perform the claimed functions of a "program" because it cannot access electronic documents by itself without additional software

programs stored on a remote server. *Id.* at 16–18 (citing Ex. 2001 ¶¶ 41–42). In other words, Patent Owner essentially contends that the client program recited in claim 2 must provide *direct* access to a file stored in a user library on the server, without the assistance of any program on the server. *See* PO Resp. 11; *see also* Ex. 2003, 24:3–24 (Dr. Plock testifying that Kikinis's browser cannot correspond to the claimed "program" because it must use a server-side program to access databases, and thus "cannot directly access" the databases).

We are not persuaded by Patent Owner's argument, which improperly reads "direct" access into the claim. Claim 2 simply requires the program to "access the file," without precluding the involvement of software on the server to facilitate that access. The broadest reasonable interpretation of "access," as used in the claim without any modifiers, encompasses the type of file access performed by the browser in the Kikinis system. Moreover, Patent Owner's own expert admits that in any client-server system, such as the system described and claimed in the '290 patent, software on a server necessarily is required for the server to respond to a request from a client program, such as a browser. *See* Ex. 2004, 53:14–19, 54:13–18. Thus, we find that Kikinis's web browser is a program stored on a client that is operable to perform the functions of the "program" recited in claim 2, including accessing a file on the server.

b. File associated with a selected user link

Patent Owner contends that Kikinis does not disclose "selection by a user of one of the user links to access *the file associated with the selected user link* from the user library," as recited in claim 2. PO Resp. 34–40. According to Patent Owner, Kikinis describes links to software programs

and databases, but not links to specific files. *Id.* at 35–36. As part of its argument, Patent Owner submits that the '290 patent describes a "one-click" system that provides a "direct link" from an item in the user profile to a specific file in the user library. *Id.* (citing Ex. 1001, 15:12–13 ("The user has the ability to subscribe the channel by making *a direct link to a file . . . .*")).

As an initial matter, the plain language of claim 2 does not require "one-click" access or a "direct link" to files. Although the '290 patent describes direct links to files, it also describes other means for accessing files. *See, e.g.*, Ex. 1001, 15:12–15 ("The user has the ability to subscribe the channel by making a direct link to a file, *or* by combining various files under some category, *or* by providing a drop down list to a subscribed channel." (emphases added)); *id.* at 15:53–57 ("[A] library icon . . . , when selected, provides a display as shown in FIG. 5c which contains a list of all of the files contained in the user library. *From here*, the user can access any of the files contained in his or her user library . . . ." (emphasis added)). Patent Owner does not present persuasive evidence or argument for importing a "one-click" limitation into claim 2.

Turning to Kikinis, we find that, contrary to Patent Owner's arguments, Kikinis discloses the selection of a user link to access the file associated with the selected user link from the user library. Kikinis specifically states that its home page, which corresponds to the claimed user profile, has "on-screen links to electronic documents reserved for the home page 'owner', such as e-mail and faxes." Ex. 1005, 7:35–8:1. Patent Owner's expert, Dr. Plock, agrees that this passage from Kikinis discloses links to electronic documents. Ex. 2004, 66:6–20. Thus, Kikinis clearly

discloses links on a user's home page to individual, electronic documents, which are "files" as that term is defined in the '290 patent. *See supra* II.A.1.

In addition, it is undisputed that Kikinis discloses a home page with links to databases. *See, e.g.*, Pet. 16; PO Resp. 36. As described in Kikinis, in connection with Figure 2, web server 67 stores a set of databases 71, each of which "belongs to (or is assigned to or is associated with) a different client." Ex. 1005, 6:32–35. Each database set 71 includes home page 73 that is individualized to a specific user and provides links to various lower-order databases maintained by electronic document server 69 for each user, such as e-mail database 89, fax database 91, voice-mail database 93, and database 95 containing other electronic documents. *Id.* at 6:35–7:4; *see id.* at Fig. 2 (showing client-specific databases 89, 91, 93, and 95).

Patent Owner agrees that Kikinis describes links to databases, but argues that databases are not files. PO Resp. 34, 36, 38; Ex. 2001 ¶¶ 44–45. The '290 patent, however, defines "file" as "[a]ny digital item, including information, documents, applications, audio/video components, and the like, that is stored in memory and is accessible via a file allocation table or other pointing or indexing structure." Ex. 1001, 4:25–28; *see supra* II.A.1. At his deposition, Patent Owner's expert, Dr. Plock, admitted that the databases for e-mail, fax, voice-mail, and other electronic documents in Kikinis meet the requirements of a file, as that term is used in the '290 patent. *See* Ex. 2004, 59:21–63:20. Specifically, Dr. Plock agreed that the databases are stored in digital form, *id.* at 63:15–20, are stored in memory, *id.* at 59:21–23, 62:21–24, and can be accessed using a pointing or indexing structure, *id.* at 59:24–60:1, 60:9–11, 62:25–63:7. Dr. Plock further agreed that a user accesses the databases in Kikinis via links on the home page, which corresponds to the

claimed user profile. *Id.* at 71:19–72:8. The databases disclosed in Kikinis, therefore, are files associated with selected user links, as recited in claim 2.

Patent Owner and its expert contend that Kikinis's lower-order databases (e-mail database 89, fax database 91, voice-mail database 93, and database 95 for other electronic documents) do not comprise a "user library," as required by claim 2, because the databases contain e-mails, voice-mails, and faxes for multiple users. *See* Tr. 32:11–25; Ex. 2003, 36:3–14; Ex. 2004, 56:20–57:1. This argument, however, is inconsistent with the disclosures in Kikinis, including the client-specific databases shown in Figure 2. *See* Ex. 1005, 8:30–31 (describing electronic document databases as belonging to a user). Kikinis, therefore, discloses a user library (i.e., a collection of databases stored for a user) containing one or more files (i.e., databases 89, 91, 93, and 95), which may be selected by a user link in a user profile (i.e., home page).

Thus, Kikinis discloses selection of a link to access a file associated with the selected link from a user library in at least two ways—via a link to an electronic document stored in a user's database of electronic documents, which corresponds to the recited "user library," and via a link to one of the user's databases, e.g., the user's e-mail database, which is a "file" as that term is defined in the '290 patent and which, together with other databases, comprise a "user library."

c. User profile

Patent Owner contends that the home page disclosed in Kikinis is not a "user profile" as recited in claim 2 because Kikinis contains no mention of any "user-specific information relating to an individual using a computer" found within the home page. PO Resp. 41. Kikinis, however, describes a

home page as "a graphical interface unique to an individual user" that "functions in part as a table of contents." Ex. 1005, 2:3–5. Further, Kikinis specifically indicates the home page has "indicia identifying the home page owner" and is "individualized to a specific client." *Id.* at 3:3–4, 6:34–35. Patent Owner's argument fails to account for these express disclosures of "user-specific information" in Kikinis.

3. Claim 1

Independent claim 1 of the '290 patent is directed to a computer-readable memory for use by a client computer to provide a user with a graphical user interface to a plurality of computer resources. Ex. 1001, 38:30–34. As in claim 2, the computer-readable memory on the client includes a "program stored on [a] non-volatile data storage device." *Id.* at 38:37–38. The program recited in claim 1 is, among other things, operable "to display a graphical user interface comprising an application window separated into a number of regions." *Id.* at 38:39–41. One region has "a number of graphical objects," some of which are "each representative of a different software application," and a second region that has "user-selectable items," some of which are "each associated with a different data set." *Id.* at 38:42–52. The program further is "operable in response to selection of at least one of said items to provide the user with access to its associated data set." *Id.* at 38:54–56. In addition, the program includes a "login module that is operable upon execution to identify the user of the computer." *Id.* at 38:57–58. Following execution of the login module, the program receives "from the server a user profile containing one or more user data sets and user links to information resources." *Id.* at 38:62–64.

Petitioner provides detailed analysis illustrating where Kikinis describes each limitation of claim 1. Pet. 8–12. In particular, Petitioner asserts that Kikinis discloses the recited "program" (a web browser on a user station), "user profile" (home page), and "application window separated into a number of regions" (regions displayed on the home page). *Id.* at 9–12 (citing Ex. 1003 ¶¶ 117–128, 138–147). Patent Owner argues that Kikinis fails to describe (a) a program stored on a non-volatile data storage device that performs the functions recited in the claim; (b) an application window separated into a number of regions, including a first region and a second region that meet the requirements of the claim; (c) a login module as recited in the claim; and (d) a user profile. PO Resp. 1–5, 10–34, 40–42.

Having considered the parties' contentions and supporting evidence, we determine that Petitioner has demonstrated by a preponderance of the evidence that Kikinis anticipates claim 1 of the '290 patent. For the reasons discussed below, we are not persuaded by Patent Owner's contentions.

a. Program stored on a non-volatile data storage device

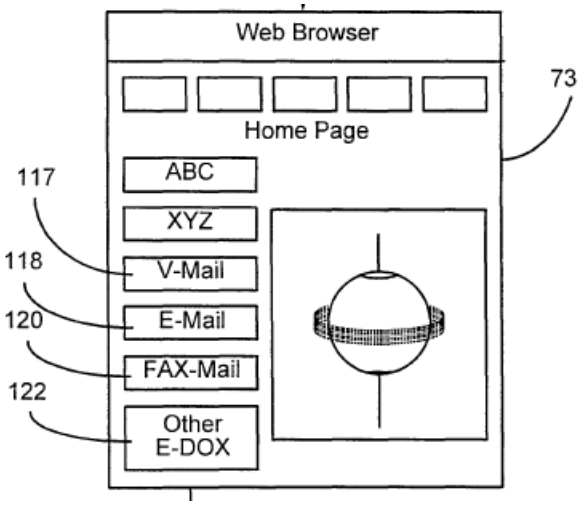
Patent Owner proffers the same argument made with respect to claim 2—that Kikinis's system provides only "indirect" access to files on the server, and Kikinis's browser does not perform the functions of a "program" because it cannot access documents without additional software stored on the server. PO Resp. 10–18. For the reasons explained previously, *see supra* II.B.2.a, we are not persuaded by Patent Owner's argument. Accordingly, we find that Kikinis's web browser is a program stored on a client that is operable to perform the functions of the "program" recited in claim 1, including providing the user with access to a data set.

b. Application window separated into a number of regions

Claim 1 requires an application window separated into at least two regions—a first region with selectable graphical objects for different software applications, and a second region with selectable items for different data sets. Ex. 1001, 38:40–56. Patent Owner contends that the two regions must be separate or distinct from each other, and each region must be characterized by related functions or features. PO Resp. 20–23. According to Patent Owner, Kikinis discloses only one relevant region. *Id.* at 23–30.

As an initial matter, we do not agree with Patent Owner's proffered construction of "region." As discussed above, the broadest reasonable construction of "region" as used in the '290 patent is "area." *See supra* II.A.2. Thus, beyond the requirements already set forth in the claim for each region, we do not place any additional limitations on the two regions recited in the claim.

Moreover, we are persuaded by Petitioner's arguments that Kikinis discloses two regions, as recited in claim 1. *See* Pet. 9–12; Reply 11–13 (citing Ex. 1003 ¶¶ 141–147). A window from Figure 3 of Kikinis is reproduced below:



The window from Figure 3 of Kikinis illustrates a home page. We agree with Petitioner that buttons 117, 118, 120, and 122, shown in Figure 3, constitute a first region including a number of selectable graphical objects, each representative of a different software application. *See* Pet. 10–11. Kikinis describes these four buttons together as providing links to a user's e-mail, faxes, voice-mail, and other electronic documents, which respectively are contained in databases 89, 91, 93, and 95, and accessed by programs 79, 81, 85, and 87. Ex. 1005, 6:29–31, 7:2–7, 7:11–16, 8:2–13.

For the second region of the application window recited in the claim, Petitioner relies on Kikinis's disclosure of links on a home page to other databases, "such as a personal multi-lingual dictionary featuring pronunciation, a spelling checker, or a thesaurus; or indeed, almost any other sort of digital data or control routines." *Id.* at 8:14–18; *see* Pet. 11–12 (citing Ex. 1003 ¶¶ 128, 146–148); Reply 12–13. Although Kikinis does not refer expressly to a figure when describing these additional links, Figure 3 shows another region containing buttons labeled ABC and XYZ. Kikinis also states that a person of ordinary skill in the art would understand there are many designs one might use for a home page interface. Ex. 1005, 9:28–29. Based on these disclosures, Patent Owner's expert, Dr. Plock, agreed that Kikinis indicates it is "simple" to add to the home page links to other databases, such as a dictionary, spelling checker, and thesaurus. Ex. 2004, 85:17–87:14. In determining whether a prior art reference discloses the claimed subject matter under 35 U.S.C. § 102, "it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826 (CCPA 1968). Based on the

evidence, we agree with Petitioner that one of ordinary skill in the art would have understood Kikinis to disclose a second region on a home page with user-selectable items, each associated with a different data set, e.g., a dictionary and a thesaurus. *See* Pet. 11–12; Reply 12–13.

We are not persuaded by Patent Owner's arguments to the contrary. Patent Owner contends that the application window in Figure 3 of Kikinis includes three regions, but only one that satisfies the requirements of one of the two regions specified in claim 1, such as user-selectable items. PO Resp. 24–26. In Patent Owner's view, the column of vertical buttons cannot be perceived as more than one region because the buttons are not "visually or functionally distinct." *Id.* at 28. As we have construed the claim language, however, regions need not be visually or functionally distinct. *See supra* II.A.2. Nevertheless, the two regions Petitioner identifies in Kikinis are functionally distinct, as one region provides links to a user's files, such as e-mail, faxes, voice-mail, and other electronic documents, and the other region provides links to other databases not specific to the user, such as a dictionary and thesaurus. Patent Owner also argues that Kikinis's disclosure of links to other databases, such as a dictionary and thesaurus, is insufficient "to overcome the absence [of] multiple regions meeting the requirements" of the claim. PO Resp. 30. As discussed, however, we agree with Petitioner that the vertical buttons in Figure 3 of Kikinis comprise two regions, and that a person of ordinary skill in the art would have understood that the links to other databases, such as a dictionary and thesaurus, correspond to the second region recited in claim 1.

c. Login module

Patent Owner contends that Kikinis does not disclose receiving a user profile from the server following execution of a login module, as recited in claim 1. PO Resp. 30–34. Instead, Patent Owner argues, "the security protocol disclosed in Kikinis is initiated *after* the user accesses the home page and before the user accesses the electronic database." *Id.* at 31 (emphasis added). Kikinis, however, describes restricting access both to home pages and to electronic databases:

> There are well known methods implemented in the art to restrict access to home pages and data bases. The same methods may be used to protect electronic data bases from unwanted access. For example, access to electronic document data bases may be restricted by *requiring a user to provide a password and user name before access to a home page* or a specific electronic document data base *is granted*.

Ex. 1005, 8:19–24 (emphases added). Thus, Kikinis describes execution of a login module prior to the user accessing the home page, which corresponds to the claimed user profile.

d. User profile

Patent Owner contends that the home page disclosed in Kikinis is not a "user profile" as recited in claim 1 because Kikinis contains no mention of any "user-specific information relating to an individual using a computer" found within the home page. PO Resp. 41. For the reasons explained above with respect to claim 2, we find Patent Owner's argument unpersuasive because Kikinis expressly discloses a home page with "user-specific information." *See supra* II.B.2.c.

III. CONCLUSION

Based on the evidence and arguments, Petitioner has demonstrated by a preponderance of the evidence that claims 1–3 of the '290 patent are anticipated by Kikinis under 35 U.S.C. § 102(b).

IV. ORDER

Accordingly, it is:

ORDERED that claims 1–3 of U.S. Patent No. 6,771,290 B1 are unpatentable.

This is a final written decision. Parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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