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EXAMINER

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DATE MAILED: 06/12/2009

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



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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JUN 12 2009

CENTRAL REEXAMINATION UNIT

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/010,012.

PATENT NO. 6687746.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Office Action in Ex Parte Reexamination	Control No. 90/010,012	Patent Under Reexamination 6687746	
	Examiner William H. Wood	Art Unit 3992	

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

- a Responsive to the communication(s) filed on 17 March 2009. b This action is made FINAL.
c A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire 2 month(s) from the mailing date of this letter. Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c)**. If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892. 3. Interview Summary, PTO-474.
2. Information Disclosure Statement, PTO/SB/08. 4. _____.

Part II SUMMARY OF ACTION

- 1a. Claims 1-20 are subject to reexamination.
1b. Claims _____ are not subject to reexamination.
2. Claims _____ have been canceled in the present reexamination proceeding.
3. Claims _____ are patentable and/or confirmed.
4. Claims 1-20 are rejected.
5. Claims _____ are objected to.
6. The drawings, filed on _____ are acceptable.
7. The proposed drawing correction, filed on _____ has been (7a) approved (7b) disapproved.
8. Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of the certified copies have
1 been received.
2 not been received.
3 been filed in Application No. _____.
4 been filed in reexamination Control No. _____.
5 been received by the International Bureau in PCT application No. _____.
* See the attached detailed Office action for a list of the certified copies not received.
9. Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.
10. Other: _____

cc: Requester (if third party requester)

DETAILED ACTION

Reexamination

1. This is an *ex parte* reexamination of U.S. Patent No. 6,687,746 requested by a third party requester. A substantial new question of patentability (SNQ) affecting claims 1-20 is raised and a reexamination has been ordered.

Request Established References

Requester argues the following patents and/or printed publications provide teachings relevant to the claims of requested reexamination of patent 6,687,746

(**Shuster et al.**):

- Exhibit 3: Cisco Systems, Cisco LocalDirector Installation and Configuration Guide, v1.6.3, October 1997 (excerpts)
(Cisco)
- Exhibit 4: Engelschall, Ralf, et al. "virtual domains using mod_rewrite", 7 messages from the Apache *httpd* developers electronic mailing list (new-httpd@apache.org), published November 18-19, 1997 (**Engelschall**)
- Exhibit 5: Atkins, Brian, et al., "Modifying vhost with mod_rewrite?", 2 messages from Usenet discussion group comp.infosystems.www.servers.unix, published January 1, 1998. (**Atkins**)

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- Exhibit 6: Slemko, Marc, "Apache redirects", 1 message from Usenet discussion group info.inet.access, published March 1, 1998.
(Slemko)
- Exhibit 7: Hypermart.net, web pages from the web site
<http://www.hypermart.net/> archived at <http://web.archive.org/>, originally published December 24, 1997 - January 31, 1998.
(Hypermart)
- Exhibit 8: Pasquali (US 6,272,493 B1), issued 08/07/2001, 01/21/1999.
(Pasquali)
- Exhibit 9: Woolston, (USPN 5,845,265), issued 12/01/1998, filed 11/07/1995. **(Woolston)**

Detailed Action Established References

This Detailed Action establishes the following references available for use as "printed publications" (MPEP 2217; MPEP 2128; MPEP 707.05(e), paragraph III., examples 9, 12) prior art applicable to the requested reexamination of U.S. patent 6,687,746 (**Shuster**):

- Brian Atkins:** Brian Atkins. "Modiyfing vhost with mod_rewrite ?". In Usenet discussion group:
comp.infosystems.www.servers.unix [online]. January 01, 1998 [retrieved on 01/14/2009]. Retrieved from the Internet:

<http://groups.google.com/group/comp.infosystems.www.servers.unix/browse_frm/month/1998-01>.

Marc Slemko: Marc Slemko. "Re: Modifying vhost with mod_rewrite?". In Usenet discussion group: comp.infosystems.www.servers.unix [online]. January 01, 1998 [retrieved on 01/14/2009]. Retrieved from the Internet: <http://groups.google.com/group/comp.infosystems.www.servers.unix/browse_frm/month/1998-01>.

Hypermart Home: "/home.html" file. In <URL: <http://hypermart.net>> archived at <URL: <http://web.archive.org>>, 12/24/1997 [online]. [retrieved on 01/14/2009] Retrieved from the Internet Archive using Internet <URL: <http://web.archive.org/web/19971224105959/http://hypermart.net/home.html>>.

Hypermart About: "/about.html" file. In <URL: <http://hypermart.net>> archived at <URL: <http://web.archive.org>>, 12/24/1997 [online]. [retrieved on 01/14/2009] Retrieved from the Internet Archive using Internet <URL: <http://web.archive.org/web/19971224110715/http://hypermart.net/about.html>>.

Hypermart Njoin: "/njoin.html" file. In <URL: <http://hypermart.net>> archived at <URL: <http://web.archive.org>>, 12/24/1997 [online]. [retrieved on 01/14/2009] Retrieved from the Internet Archive using Internet <URL: <http://web.archive.org/web/>>

19971224111935/http://hypermart.net/njoin.html>.

Hypermart FTP: “/faq/ftp.html” file. In <URL: http://hypermart.net> archived at <URL: http://web.archive.org>, 01/31/1998 [online].
[retrieved on 01/14/2009] Retrieved from the Internet Archive using Internet <URL: http://web.archive.org/web/19980131141348/http://hypermart.net/faq/ftp.html>.

Hypermart Ad: “/faq/ad.html” file. In <URL: http://hypermart.net> archived at <URL: http://web.archive.org>, 01/31/1998 [online].
[retrieved on 01/14/2009] Retrieved from the Internet Archive using Internet <URL: http://web.archive.org/web/19980131141425/http://hypermart.net/faq/ad.html>.

Claim Rejections - 35 USC § 103

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

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

Claims 1-2, 9, 11-13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Marc Slemko** (Marc Slemko, “Re: Modifying vhost with mod_rewrite?”, published January 1, 1998).

Claim 1

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Marc Slemko discloses a method for enabling internet access to content located by a domain name, the domain name including a user-selected subdomain label (**Marc Slemko: page 1, top, "we are running an experimental server", servers retrieve and serve stored content; page 1, top, "free subdomain in the form of username.hypermart.net"**), the method comprising:

having an IP address specified by an internet-class resource record for a domain name server, in that the resource record associates IP address to domain name in a zone file of the domain name server, and wherein domain name comprises (a) a subdomain labeled with a designated wildcard character of a domain name system and (b) at least one: higher-level domain name (**Marc Slemko: page 2, "you use some domain where you can use wildcard A records or CNAMEs (eg. *.user.example.com); then you don't even need to add anything to the DNS to make it work", A records associate IP addresses**);

configuring a content address according to a content storage system of the host [independently] that is independent of the domain name system, the content address [comprising] defined by a user-selected label (**Marc Slemko: page 1, "all users at Hypermart receive a free subdomain in the form of username.hypermart.net that they can use instead of the regular www.hypermart.net/username style URL", and "since the subdomains ... map perfectly well to our physical dir structure, we are trying to simply rewrite all URL requests for subdomains internally using mod_rewrite instead of having vhost entries for them"; therefore content address is shown by physical dir structure such as /username**), wherein the user-selected label comprises at least one character

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that is not the designated wildcard character (**Marc Slemko**: page 1, "a free subdomain in the form of *username.hypermart.net* ... we have over 2500 members now", at least one character not "*");

storing content in the content storage system, the content addressed by the content address (**Marc Slemko**: page 1, "all users at Hypermart receive a free subdomain in the form of *username.hypermart.net* that they can use instead of the regular *www.hypermart.net/username* style URL", and "subdomains ... map perfectly well to our physical dir structure"; page 1, "we are running an experimental server", servers retrieve and serve stored content);

determining the content address from the user-selected label, in response to receiving the HTTP request (**Marc Slemko**: page 1, "all users at Hypermart receive a free subdomain in the form of *username.hypermart.net* that they can use instead of the regular *www.hypermart.net/username* style URL", and "since the subdomains ... map perfectly well to our physical dir structure, we are trying to simply rewrite all URL requests for subdomains internally using *mod_rewrite* instead of having *vhost* entries for them"; also the listed ruleset);

retrieving the content from the content storage system using the content address (**Marc Slemko**: page 1, "we are running an experimental server", servers retrieve and serve stored content); and

servicing the content (**Marc Slemko**: page 1, "we are running an experimental server", servers retrieve and serve stored content).

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Marc Slemko does not explicitly state the method for enabling internet access to content: 1) includes a user-selected subdomain label that is not associated with an IP address in a zone file of any higher-level domain; 2) operating a host having an IP address specified by an internet-class resource record for a domain name server, in that the resource record associates the host IP address to a host domain name in a zone file of the domain name server, and wherein the host domain name comprises (a) a subdomain labeled with a designated wildcard character of a domain name system and (b) at least one: higher-level domain name; and 3) receiving an HTTP request comprising a domain name configured in accordance with the domain name system at the host IP address, the domain name comprising the host domain name with the user-selected label substituted for the designated wildcard character. That is the hosting method/system described in the first paragraph on page 1 of **Marc Slemko**, does not explicitly state the above three points are included.

Marc Slemko demonstrated that it was known at the time of invention to supply a domain name comprising a higher-level domain and subdomain substituted for a wildcard character (***Marc Slemko**: page 2, "you use some domain where you can use wildcard A records or CNAMEs (eg. *.user.example.com); then you don't even need to add anything to the DNS to make it work"; page 1, "username.hypermart.net"*) and user-selected labels as subdomains (***Marc Slemko**: page 1, "all users at Hypermart receive a free subdomain in the form of username.hypermart.net that they can use instead of the regular www.hypermart.net/username style URL"; "since the subdomains ... map*

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*perfectly well to our physical dir structure, we are trying to simply rewrite all URL requests for subdomains internally using mod_rewrite instead of having vhost entries for them"; also the listed rule set), subdomains not being associated with an IP address in a zone file of any higher-level domain (page 2, "you use some domain where you can use wildcard A records or CNAMEs (eg. *.user.example.com); then you don't even need to add anything to the DNS to make it work") and operating a host with a higher-level domain and subdomains for the user/client (page 1, first paragraph). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the hosting server method/system of **Marc Slemko** with a server receiving domain names such that the domain name comprises a host name (perhaps 'hypermart.net', as the higher-level domain name) and a user-selected label (subdomain) substituted for a wildcard character (perhaps 'username') as suggested by **Marc Slemko's** teaching such that a zone resource record for the host domain is comprised of a subdomain using a wildcard character and a higher-level domain name also as suggested by **Marc Slemko's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to increase the ease of use by reducing work (**Marc Slemko**: page 2, "then you don't even need to add anything to the DNS to make it work"; page 1, bottom, "we are trying to simply rewrite all URL requests for subdomains internally using mod_rewrite instead of having vhost entries for all of them").*

Claim 2

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Marc Slemko discloses the method of claim 1, further comprising maintaining a searchable database of a plurality of user-selected labels, the database relating each of the plurality of user-selected labels [associated with] to a corresponding content address of the content storage system (**Marc Slemko**: page 1, "all users at Hypermart receive a free subdomain in the form of *username.hypermart.net* that they can use instead of the regular *www.hypermart.net/username* style URL ... but we have over 2500 members now", and "subdomains ... map perfectly well to our physical dir structure").

Claim 9

Marc Slemko does not explicitly state the method of claim 1, further comprising comparing the user-selected label to a plurality of previously-selected labels each comprising a corresponding content address of the content storage system. **Marc Slemko** demonstrated that it was known at the time of invention to map user-selected labels (usernames) to a content storage systems (**Marc Slemko**: page 1, "all users at Hypermart receive a free subdomain in the form of *username.hypermart.net* that they can use instead of the regular *www.hypermart.net/username* style URL", and "subdomains ... map perfectly well to our physical dir structure") and to have large numbers of users to select labels and use the content storage system (**Marc Slemko**: "over 2500 members"). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with comparing user-selected labels (usernames) to previous labels corresponding content addresses

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as found in **Marc Slemko's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a secure and functional environment for the system's users (and their corresponding access to the content structure of the system). Security is aided by unique IDs/labels and uniqueness requires comparing a label to existing labels (**Marc Slemko**: page 1, "all users at Hypermart receive a free subdomain in the form of `username.hypermart.net` that they can use instead of the regular `www.hypermart.net/username` style URL", and "subdomains ... map perfectly well to our physical dir structure"). Further, as the content storage system (physical dir structure) is reconfigured or expanded, unique labels are required for correct functioning and then also comparison is required.

Claim 11

Marc Slemko did not explicitly state the method of claim 1, further comprising defining the user-selected label to appear like nested subdomains of a domain name configured in accordance with the domain name system. **Marc Slemko** demonstrated that it was known at the time of invention: to use nested subdomains (**Marc Slemko**: page 2, "you use some domain where you can use wildcard A records or CNAMEs (eg. `*.user.example.com`); then you don't even need to add anything to the DNS to make it work"); to map user-selected labels (usernames) to a content storage systems (**Marc Slemko**: page 1, "all users at Hypermart receive a free subdomain in the form of `username.hypermart.net` that they can use instead of the regular `www.hypermart.net/username` style URL", and "subdomains ... map perfectly well to our

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physical dir structure"); and to have large numbers of users to select labels and use the content storage system (**Marc Slemko**: page 1, "over 2500 members"). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with user-selected labels (usernames, physical dir structure mapping) which appear like nested subdomains as suggested by **Marc Slemko's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a dynamic system capable of handling increased numbers of users over time, business expansion (**Marc Slemko**: page 1, "we have over 2500 members now, which has pushed us up close to 3k vhosts" and "we are trying to simply rewrite all URL requests for subdomains internally ... instead of having vhost entries for them"; page 2, "you use some domain where you can use wildcard A records or CNAMEs (eg. *.user.example.com); then you don't even need to add anything to the DNS to make it work"; all indicating a situation of a growing number of users). Nested subdomains increase the unique labels/ID's, thus user-selected labels that appear or act like nested subdomains increase the unique labels/ID's available to the system and therefore help with a growing system/business.

Claims 12-13 and 19

The limitations of claims 12-13 and 19 correspond to the limitations of claims 1-2 and 9 and are rejected in a corresponding manner. Note "memory" for instructions is disclosed by **Atkins** (message 2, page 1, middle).

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Claims 3-5 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Marc Slemko** (Marc Slemko, "Re: Modifying vhost with mod_rewrite ?", published January 1, 1998) in view of **Hypermart Ad** ("/faq/ad.html" file. From <URL: http://hypermart.net> 01/31/1998).

Claim 3

Marc Slemko does not explicitly state the method of claim 1, [wherein the serving step further comprises] further comprising serving a frameset for the content in response to receiving the HTTP request, the frameset comprising at least one provider frame and a client frame containing the content address, and wherein retrieving the content from the content storage system is performed in response to receiving the content address in the frameset back from the client. **Hypermart Ad** demonstrated that it was known at the time of invention to serve a frameset for content including at least one provider frame and a client frame (**Hypermart Ad**: page 1, middle, "[w]e allow you to upload your files with a .ftm or .ftml extension ... extensions will be for framesets"; page 1, above last paragraph, "[w]e monitor all .ftm/.ftml files to make sure that the ad banner is visible in at least one frame"; a user's frameset therefore has at least one frame with an ad, provider frame, and other frames are for the user/client's purposes). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with framesets for the content (a client's, user's) including at least a provider frame (for advertising) and a client frame as found in **Hypermart Ad's** teaching. This implementation would have been obvious because one of ordinary skill

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in the art would be motivated to provide for operational cost and yet attract customers (increased value to customer, including those using frames) (**Hypermart Ad**: page 1, last paragraph, "ad banners are how we provide you with free hosting"). As to the limitation, "a client frame containing the content address, and wherein retrieving the content from the content storage system is performed in response to receiving the content address in the frameset back from the client", this is inherent to the frameset specification as disclosed by **Hypermart Ad**. A frameset page is sent to the client, including the addresses for the frame contents, and the client then requests the pages for the frames.

Claim 4

Atkins does not explicitly state the method of claim 3, wherein the serving step further comprises serving the client frame configured for display of the content. **Hypermart Ad** demonstrated that it was known at the time of invention to serve a frameset for content including at least one provider frame and a client frame (**Hypermart Ad**: page 1, middle, "[w]e allow you to upload your files with a .ftm or .ftml extension ... extensions will be for framesets"; page 1, above last paragraph, "[w]e monitor all .ftm/.ftml files to make sure that the ad banner is visible in at least one frame"; in a user's frameset other frames, one's without the ad, are for the user/client's purposes). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with framesets for the content (a client's, user's) including at least a provider frame (for advertising) and a client frame as found in **Hypermart Ad's**

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teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide for operational cost and yet attract customers (increased value to customer, including those using frames) (**Hypermart Ad**: page 1, last paragraph, "ad banners are how we provide you with free hosting").

Claim 5

Atkins does not explicitly state the method of claim 3, wherein the serving step further comprises serving the provider frame configured for display of advertising content.

Hypermart Ad demonstrated that it was known at the time of invention to serve a frameset for content including at least one provider frame and a client frame

(**Hypermart Ad**: page 1, middle, "[w]e allow you to upload your files with a .ftm or .ftml extension ... extensions will be for framesets"; page 1, above last paragraph, "[w]e monitor all .ftm/.ftml files to make sure that the ad banner is visible in at least one frame"; a user's frameset therefore has at least one frame with an ad, provider frame, and other frames are for the user/client's purposes). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with framesets for the content (a client's, user's) including at least a provider frame (for advertising) and a client frame as found in **Hypermart Ad's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide for operational cost and yet attract customers (increased value to customer, including those using frames) (**Hypermart Ad**: page 1, last paragraph, "ad banners are how we provide you with free hosting").

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Claims 14-15

The limitations of claims 14-15 correspond to the limitations of claims 3-5 and are rejected in a corresponding manner.

Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Marc Slemko** (Marc Slemko, "Re: Modifying vhost with mod_rewrite ?", published January 1, 1998) in view of **Hypermart FTP** ("/faq/ftp.html" file. From <URL: <http://hypermart.net>> 01/31/1998) in further view of **Hypermart Njoin** ("njoin.html" file. From <URL: <http://hypermart.net>> 12/24/1997).

Claim 8

Marc Slemko does not explicitly state the method of claim 1, further comprising receiving the content for storage on the content storage system from a user that selected the user-selected label. **Hypermart FTP** demonstrated that it was known at the time of invention to receive content for storage from a user of an account (page 1, "When I FTP my files, where do they go? When you FTP you files they are transferred directly into a directory specifically set for your files ...", page 1, "I cant seem to connect with FTP, what is wrong? ... Your accountname ...") and **Hypermart Njoin** demonstrated that it was known at the time of invention to provide users of a system with the ability to choose their user name, ID, account or user-selected label (page 1, "username you choose ... if you choose 'mycompany'", "Choose a username" field). It

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would have been obvious to one of ordinary skill in the art at the time of invention to implement the hosting server method/system of **Marc Slemko** with receiving content for storage from a user that selected the user-selected label as found in **Hypermart FTP's** and **Hypermart Njoin's** teachings. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide users of the Hypermart hosting system (found in both **Marc Slemko**, **Hypermart FTP**, and **Hypermart Njoin**) the tools and functionality in order to accomplish hosting the content desirable to users, that is user provided content (**Marc Slemko**: page 1, first paragraph, hosting; **Hypermart Njoin**: page 1, "The user name you choose will determine how people will access your site").

Claim 18

The limitations of claim 18 correspond to the limitations of claim 8 and are rejected in a corresponding manner.

Claims 6-7 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Marc Slemko** (Marc Slemko, "Re: Modifying vhost with mod_rewrite ?", published January 1, 1998) in view of **Cisco** (Cisco Systems, Cisco LocalDirector Installation and Configuration Guide, v1.6.3, October 1997 (excerpts)).

Claim 6

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Marc Slemko does not explicitly state the method of claim 1, wherein the receiving step is performed by a scheduler, and further comprising directing the domain name from the scheduler to a redirector so as to balance load from a plurality of requests. **Cisco** demonstrated that it was known at the time of invention to “receive” being performed by an entity/scheduler (**Cisco**: page 1-1, figure 1-1, LocalDirector) and for such entity to direct to other entities/redirectors so as to load balance (**Cisco**: page 1-1, figure 1-1, “LocalDirector ... is a ... solution ... that intelligently load balances TCP/IP traffic across multiple servers”). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with scheduling and load balancing as found in **Cisco**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce cost and speed access (**Cisco**: page 1-1, first paragraph).

Claim 7

Marc Slemko does not explicitly state the method of claim 6, wherein the determining step is performed by any one of a plurality of redirectors, each configured for parsing the domain name. **Cisco** demonstrated that it was known at the time of invention to provide a plurality of entities/redirectors (**Cisco**: page 1-1, “TCP/IP traffic across multiple servers”, figure 1-1, multiple servers). **Marc Slemko** demonstrated entities/servers for parsing domain names (**Marc Slemko**: page 1, mod_rewrite and the ruleset; page 2, “you use some domain where you can use wildcard A records or CNAMEs (eg. *.user.example.com); then you don't even need to add anything to the

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DNS to make it work"). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with a plurality of entities for parsing the domain name as found in **Cisco's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce cost and speed access (**Cisco**: page 1-1, first paragraph).

Claims 16-17

The limitations of claims 16-17 correspond to the limitations of claims 6-7 and are rejected in a corresponding manner.

Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Marc Slemko** (Marc Slemko, "Re: Modifying vhost with mod_rewrite ?", published January 1, 1998) in view of **Woolston** (USPN 5,845,265; issued 12/01/1998).

Claim 10

Marc Slemko does not explicitly state the method of claim 1, further comprising auctioning the user-selected label for bids from a plurality of bidders. **Woolston** demonstrated that it was known at the time of invention to auction goods using electronic means, computerized means (column 3, lines 25-41, "electronic legal ownership"; column 5, lines 46-60, "with or without reserve, to the highest bidder"). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the server system of **Marc Slemko** with auctioning items of value (in the

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Marc Slemko server some or all of the limited and thus valuable number of unique labels/names/IDs) as found in **Woolston's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to increase revenue for the operation of the system (column 5, lines 50-51, "the highest bidder").

Claim 20

The limitations of claim 20 correspond to the limitations of claim 10 and are rejected in a corresponding manner.

Response to Arguments

Patent Owner's arguments filed in the Response of 03/16/2009 have been fully considered but they are not persuasive. Patent Owner argues: ¹⁾ "considering the independent claims and Slemko in their respective entireties, what is claimed would not have been obvious in view of Slemko" (Response: page 9, second paragraph from the bottom); ²⁾ "the content address was not defined by the subdomain label, but by the entire domain name including the host name" (Response: page 10, second paragraph); ³⁾ "no evidence ... to show that either Apache non-IP virtual hosting or Slemko's mod_rewrite involved any use of a wildcard character in a resource record" (Response: page 11, first paragraph); ⁴⁾ "... Slemko discussing ... the table_set command is the heart of its disclosure, and yet has no relevance to any of the pending claims" (Response: page 11, second paragraph); ⁵⁾ "the ordinary reader would have been left wondering what on earth 'this' refers to, how could 'it' be made to work, or how 'this'

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could be done properly, or done at all" (Response: page 11, last paragraph); ⁶⁾ "to one of ordinary skill, this unsolved barrier would have discouraged further consideration of whatever unexplained thing Slemko had in mind concerning wildcard A records or CNAMEs" (Response: page 12, first paragraph); ⁷⁾ "Slemko does not particularly disclose use of a 'content address defined by a user-selected label' in a 'content storage system of the host that is independent of the domain name system" (Response: page 12, second paragraph); ⁸⁾ "... the Apache Hypermart system disclosed by Slemko ... did not configure content addresses defined by the user-selected label. Instead, the Hypermart system configured content addresses by the hypermart directory structure" (Response: page 12, bottom to page 13, top); ⁹⁾ Hypermart did not "determine the content address from the user-selected label" (Response: page 13, second paragraph); ¹⁰⁾ "Slemko stands for nothing more than that wildcard A records, CNAMEs, and Apache virtual hosting were known" (Response: page 13, last paragraph); ¹¹⁾ "Slemko adds nothing that was not already considered during the original examination" (Response: page 14, first line); ¹²⁾ "there is no evidence that Slemko or anyone else ever successfully solved the problem of erroneous Apache redirects ..." (Response: page 14, second paragraph); ¹³⁾ in relation to claim 2, "Slemko fails to disclose or suggest 'maintaining a searchable database of a plurality of user-selected labels, the database relating each of the plurality of user-selected labels to a corresponding content address of the content storage system'" (Response: page 15); ¹⁴⁾ in relation to claim 11, "Slemko fails to disclose 'defining the user-selected label to appear like nested subdomains of a domain name configured in accordance with the domain name

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system” (Response: page 16); ¹⁵⁾ in relation to claims 3 and 14 in view of **Hypermart Ad**, “... it fails to disclose that a frameset served in response to receiving the domain name includes a client frame containing the content address” (Response: page 16); and ¹⁶⁾ “Slemko cannot be relied upon as prior art, and should therefore be withdrawn” (Response: page 17, second half of page).

First, the claims of patent 6,687,746 and **Marc Slemko** are considered in their entirety. **Marc Slemko** is directed to “enabling internet access to content located by a domain name”, and storing and serving content from a content storage system using a user-selected label as the above rejections indicate. Further, **Marc Slemko** obviously establishes, as the above rejections indicate, enabling internet access to content: 1) includes a user-selected subdomain label that is not associated with an IP address in a zone file of any higher-level domain; 2) operating a host having an IP address specified by an internet-class resource record for a domain name server, in that the resource record associates the host IP address to a host domain name in a zone file of the domain name server, and wherein the host domain name comprises (a) a subdomain labeled with a designated wildcard character of a domain name system and (b) at least one: higher-level domain name; and 3) receiving an HTTP request comprising a domain name configured in accordance with the domain name system at the host IP address, the domain name comprising the host domain name with the user-selected label substituted for the designated wildcard character.

Second, **Marc Slemko**, under the broadest reasonable interpretation, defines the content address from a user-selected label (**Marc Slemko**: page 1, “all users at

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Hypermart receive a free subdomain in the form of username.hypermart.net that they can use instead of the regular www.hypermart.net/username style URL"; and *"since the subdomains ... map perfectly well to our physical dir structure, we are trying to simply rewrite all URL requests for subdomains internally using mod_rewrite instead of having vhost entries for them"*). The phrase "defines" still reads upon **Marc Slemko** as it defines the content address from these user selections.

Third, **Marc Slemko** clearly states wildcard characters being used in a resource record (**Marc Slemko**: page 2, "you use some domain where you can use wildcard A records or CNAMEs (eg. *.user.example.com); then you don't even need to add anything to the DNS to make it work", A records associate IP addresses). Additionally, the cited prior art established the obvious use of wildcard characters being used in a content hosting environment with user-selected labels simply be implementing the solution described.

Fourth, **Marc Slemko's** discussion of "table_set" is only part of the larger discussion. **Marc Slemko** in its entirety is read upon by the claims in question, as the reference is directed toward serving content based upon user-selected labels and IP addressing as the above rejections discuss.

Fifth and sixth, one of ordinary skill in the art of server development would not have been left wondering about the contents of the **Marc Slemko** reference or its implementation. The reference was posted to a discussion group specifically for those of skill in servers and the hosting/storing/serving of content. Further, this is evidenced by the **Marc Slemko** reference itself as a conversation between at least two people of

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ordinary skill in the art. Additionally, the passage in question is not vague at all. It is addressed to the solution that was just described in the preceding paragraphs ("this" and "it"). No barrier exists as a solution is proposed by **Marc Slemko**.

Seventh, **Marc Slemko** does disclose "content address defined by a user-selected label" by at least user accounts which map to the "dir structure" (**Marc Slemko**: page 1, first paragraph and fifth paragraph; showing user selected labeling of content addresses). And, **Marc Slemko** does disclose "content storage system of the host that is independent of the domain name system" by at least the user accounts used in conjunction with the domain name system, such as "hypermart.net" and "*.user.example.com" (**Marc Slemko**: page 1, first paragraph; page 2, last paragraph; showing at least a directory structure and also a domain structure).

Eighth and Ninth, again the cited prior art discloses "user accounts" based off of "username" (**Marc Slemko**: page 1, first paragraph). Though the subdomains may map to the "dir structure", the directory structure clearly maps to the user accounts. Therefore, the content addresses are defined by a user-selected label.

Tenth, the disclosure of **Marc Slemko** discusses far more than "wildcard A records, CNAMEs, and Apache virtual hosting". Furthermore, this is evidenced by Patent Owner's above arguments for points 1-9.

Eleventh, **Marc Slemko** discloses a specific solution that was not discussed in the original prosecution. Further, Patent Owner's contention that "Virtual Host Examples for Common Setups" was previously considered and disclosed the subject

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matter of the presently considered prior art, **Marc Slemko**, is not clear as the reference does not appear to have an appropriate date.

Twelfth, the **Marc Slemko** reference is itself an indication of overcoming any barriers mentioned by the reference, as the reference is a disclosed solution.

Thirteenth, according to Patent Owner's definition, "a database is 'a collection of data arranged for ease and speed of search and retrieval by a computer'", **Marc Slemko's** disclosure of subdomain user accounts and subdomain mapping to directory structure discloses a database. Clearly the directory relates the content addresses to the user-selected labels, apparently with direct mapping.

Fourteenth, as indicated above in the rejections, **Marc Slemko** obviously disclosed user-selected labels to appear like nested subdomains of a domain name system (**Marc Slemko**: page 2, "you use some domain where you can use wildcard A records or CNAMEs (eg. *.user.example.com)"). The reference explicitly disclosed nested subdomains. The reference also disclosed user-selected labels. Nested subdomains increase the unique labels/ID's, thus user-selected labels that appear or act like nested subdomains increase the unique labels/ID's available to the system and therefore help with a growing system/business. Further, under the broadest reasonable interpretation, user-selected labels of **Marc Slemko** "appear like" nested subdomains using the "*.user.example.com".

Fifteenth, the **Marc Slemko** and **Hypermart Ad** combination discloses the limitation, "a client frame containing the content address, and wherein retrieving the content from the content storage system is performed in response to receiving the

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content address in the frameset back from the client". This is inherent to the frameset specification as disclosed by **Hypermart Ad**. A frameset page is sent to the client, including the addresses for the frame contents, and the client then requests the pages for the frames.

Sixteenth, **Marc Slemko** can be relied upon as prior art. **Marc Slemko** is a prior publication from a Usenet discussion group, published 01/01/1998. Usenet discussion groups are publicly available and messages are available and published as of their date. Google maintains an archive of the publicly available Usenet discussion groups. Whether or not Google expressly disclaims any warranty as to the reliability or accuracy of the information is irrelevant. Such a statement does not present factual evidence as to the actual reliability or accuracy of the information, but merely expresses a legal relationship Google wishes to establish. A reference, reciting a date before the critical date of the patent, has been applied in a rejection against the claims. No actual evidence has been presented to show the reference (its content, its date, or its availability to the public) is deficient in any way. Accordingly, the preponderance of the evidence indicates **Marc Slemko** is properly relied upon as prior art and as such a Prima Facie rejection has been established.

Having addressed all of the Patent Owner's raised issues and concerns, the rejections are maintained as indicated.

Response to Amendment

Patent Owner is reminded that proposed claim amendments during a reexamination proceeding are governed by 37 CFR 1.530 (also see MPEP 2250), which in part states, "... any claim changed by the amendment paper, a parenthetical expression 'amended,' 'twice amended,' etc., should follow the claim number". Future proposed claim amendments should follow this labeling standard.

Information Disclosure Statement

MPEP 2256 states in pertinent part,

Where patents, publications, and other such items of information are submitted by a party (Patent Owner or Requester) in compliance with the requirements of the rules, the requisite degree of consideration to be given to such information will be normally limited by the degree to which the party filing the information citation has explained the content and relevance of the information. The initials of the examiner placed adjacent to the citations on the form PTO/SB/08A and 08B or its equivalent, without an indication to the contrary in the record, do not signify that the information has been considered by the examiner any further than to the extent noted above. (emphasis added)

In concert with MPEP 2256, the references submitted in the Information Disclosure Statement (IDS) of 03/16/2009 have been considered only to the extent that Patentee has "explained the content and relevance".

The information disclosure statement filed 03/16/2009 fails to comply with the provisions of 37 CFR 1.98 and MPEP § 609 because some of the references have not been provided with dates, publisher, relevant pages, or place of publication in accordance with 37 CFR 1.98(b)(5) or have not be translated into the English language. Also MPEP 609 states,

Each publication must be identified by publisher, author (if any), title, relevant pages of the publication, and date and place of publication. The date of publication supplied must

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include at least the month and year of publication, except that the year of publication (without the month) will be accepted if the applicant points out in the information disclosure statement that the year of publication is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the particular month of publication is not in issue, (Emphasis added.)

In addition MPEP 609.04(a)(III) states,

Each information disclosure statement must further include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information listed that is not in the English language. (Emphasis in original.)

MPEP 2218 also states,

If any of the documents are not in the English language, an English language translation of all necessary and pertinent parts is also required. See MPEP § 609.04(a), subsection III. An English language summary or abstract of a non-English language document is usually not sufficient. There is no assurance that the Office will consider the non-English language patent or printed publication beyond the translation matter that is submitted. (Emphasis added.)

The IDS has been placed in the application file, but only the references not lined through have been considered and, as above, only to the extent Patentee has "explained the content and relevance". The following is a list identifying non-complying references including an explanation:

- AA – wrong patentee
- BB – incorrect date, not a publication
- CE – incorrect date, incorrect citation
- CF – incorrect pages, incorrect citation
- CG – no pages
- CH – incorrect date
- CI – no pages
- CJ – no pages

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- CK – incorrect date, no pages
- CL – not found
- CN – not a publication
- CO – incorrect citation
- CP -- incorrect citation
- CQ -- incorrect citation
- CR – not a publication
- CAF -- not found
- CAG – not found

The Examiner notes that the court proceedings have been considered.

However, the citations do not meet the requirements of 37 CFR 1.98 and have been lined through. Court proceedings will not be listed on the face of a reissue patent.

Where patents, publications, and other such items of information are submitted by a party (patent owner or requester) in compliance with the requirements of the rules, the requisite degree of consideration to be given to such information will be normally limited by the degree to which the party filing the information citation has explained the content and relevance of the information. The initials of the examiner placed adjacent to the citations on the form PTO/SB/08A and 08B or its equivalent, without an indication to the contrary in the record, do not signify that the information has been considered by the examiner any further than to the extent noted above.

Conclusion

THIS ACTION IS MADE FINAL.

A shortened statutory period for response to this action is set to expire two from the mailing date of this action.

Extensions of time under 37 CFR 1.136(a) do not apply in reexamination proceedings. The provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Further, in 35 U.S.C. 305 and in 37 CFR 1.550(a), it is required that reexamination proceedings "will be conducted with special dispatch within the Office."

Extensions of time in reexamination proceedings are provided for in 37 CFR 1.550(c). A request for extension of time must be filed on or before the day on which a response to this action is due, and it must be accompanied by the petition fee set forth in 37 CFR 1.17(g). The mere filing of a request will not effect any extension of time. An extension of time will be granted only for sufficient cause, and for a reasonable time specified.

The filing of a timely first response to this final rejection will be construed as including a request to extend the shortened statutory period for an additional month, which will be granted even if previous extensions have been granted. In no event however, will the statutory period for response expire later than SIX MONTHS from the mailing date of the final action. See MPEP § 2265.

Important Reexamination Notices

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Extensions of Time

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extension of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

Service of Papers

After filing of a request for *ex parte* reexamination by a third party requester, any document filed by either the patent owner or the third party requester must be served on the other party (or parties where two or more third party requester proceedings are merged) in the reexamination proceeding in the manner provided in 37 CFR 1.248. The document must reflect service or the document may be refused consideration by the Office. See 37 CFR 1.550(f).

Amendment To Reexamination Proceedings

Patent Owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j), must be formally presented pursuant to 37 CFR 1.52(a) and (b), and must contain any fees required by 37 CFR 1.20(c). See MPEP 2250.

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In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be submitted in response to the first Office Action on the merits (which does not result in a close of prosecution). Submissions after the second Office Action on the merits, which is intended to be a final action, will be governed by the requirements of 37 CFR 1.116, after final rejection and 37 CFR 41.33 after appeal, which will be strictly enforced. See MPEP 2250 (IV) for examples to assist in the preparation of proper proposed amendments in reexamination proceedings.

Litigation Reminder

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 6,687,746 throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 6,687,746 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Correspondence Information

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All correspondence relating to this *ex parte* reexamination proceeding should be directed:

By Mail to: Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

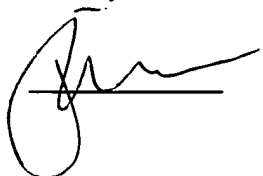
Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding should be directed to the Central Reexamination Unit at telephone number (571)272-7705.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/William H. Wood/
Primary Examiner, Art Unit 3992
May 15, 2009

Conferees:

/Sam Rimell/
Primary Examiner, Art Unit 3992

A handwritten signature in black ink, appearing to be 'Sam Rimell', written over a horizontal line.