

Filed on behalf of Bruce Zak

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FACEBOOK, INC.  
Petitioner

v.

BRUCE ZAK  
Patent Owner

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Case No.: IPR2017-00003  
U.S. Patent No. 9,141,720 B2  
Claims 11 – 30  
Issued September 22, 2015

**PATENT OWNER'S PRELIMINARY RESPONSE**

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## **Patent Owner Preliminary Response Pursuant to 37 C.F.R. § 42.107**

Pursuant to 37 C.F.R. § 42.107, Patent Owner Bruce Zak (“Zak”) submits the following Preliminary Response to the Petition filed by Petitioner Facebook, Inc. (“Facebook”) seeking an *inter partes* review of U.S. Patent No. 9,141,720 (the “‘720 Patent”).

Zak’s Preliminary Response is supported by the accompanying Declaration of Dr. William Mangione-Smith. EX. 2001.

### **I. INTRODUCTION**

Bruce Zak, a Michigan native and resident, is a skilled computer programmer. Starting when he was in his late twenties, Zak worked at Microsoft for many years. Zak left Microsoft in the early 2000s to start a new company in Michigan called Everyware, Inc. (“Everyware”). Everyware was formed around a new software product that Zak developed, with input from co-inventor Regina Zak (who was his wife at the time), called 7Ware. The purpose of 7Ware was to improve the management of content on Internet web sites, which, at that time, required a person skilled in HTML computer programming. Under the burden associated with content management, many organizations did not maintain dynamic, up-to-date web sites. Zak sought to automate the ability to add, remove, update and generally manage content on an Internet web site such that virtually any

user of the web site could do it without assistance from a technically-savvy third-party. As a result, content on web sites could be easily updated in a timely manner, without having to work through technically-savvy programmers.

During the development process, Zak realized that, for privacy reasons, it would be desirable for 7Ware to enable *users* – who would now be able to freely add, remove, update and otherwise manage content on a web site that was broadly available to many users – to control *which* of the other users of the web site would be permitted to *view* certain posted content on the web site. Zak further realized that it would be desirable for *users* to be able to control, at least for certain web pages on the web site, *which* of the other users could *post* content.

To achieve these functions, Zak conceived of programming a computer to generate user-configurable links that can be modified or configured by users based upon user-configurable business rules that control the functionality of web pages with respect to permissions to view and/or post certain content. The use of “links,” such as HTML hyperlinks, in the programming of Internet web sites was known at that time. However, Zak’s invention of causing a computer to generate user-configurable links based upon business rules that were themselves configured by users of the web site to control which other users could view which content on the web site was new and unique.

Zak filed a patent application directed to his inventions on February 13, 2003. The United States Patent Office has now issued four patents stemming from Zak's original application. The '720 Patent, the patent challenged by Facebook in its Petition, is the third in the family. The most recent patent to issue, U.S. Patent No. 9,514,239, was issued by the Examiner after having considered Boyce, the primary reference relied upon in Facebook's Petition.

## **II. OVERVIEW OF THE INVENTION**

Claims 11-30 of the '720 Patent (the "Challenged Claims") are directed to a system for managing content displayable on a collection of web pages to multiple users who have profiles stored on the system. The system includes at least two configurable applications that include content displayable to users of the system. The first configurable application is a biography application that displays biographical information about an administrator of the collection of web pages. The second configurable application includes content that is received from the administrator and one or more of the other users of the system. The system further includes business rules that are configurable by the administrator and that utilize user profiles to control read and write access privileges to the second configurable application. The system further includes at least one application link that points to at least one of the configurable applications so as to enable users to open the

configurable application(s). Of the Challenged Claims, Claim 11 is the sole independent claim. Claim 11 provides:

11. A system, including a computer, for managing content displayable on a collection of web pages to multiple users of the system who have profiles stored on the system, the users including an administrator of the collection of web pages, comprising:

a plurality of configurable applications that are managed by the computer, including at least a first configurable application and a second configurable application, wherein the first and second configurable applications each includes content displayable on the collection of web pages, wherein the content includes at least one of text, graphics, sounds, documents, and multi-media content;

wherein the first configurable application is a biography application that displays biographical information about the administrator of the collection of web pages;

wherein the second configurable application is generated by the computer at least in part based on content received from the administrator and at least in part based on content received from one or more of the other users of the system;

at least one application link on at least one of the web pages that points to at least one of the plurality of configurable applications so as to enable the users to selectively activate the configurable application to which the application link points;

a first business rule that is configurable by the administrator, wherein the system uses the first business rule and information in user profiles to determine which content of the second configurable application is viewable by which of the other users of the system; and



a second business rule that is configurable by the administrator, wherein the system uses the second business rule and information in user profiles to determine which of the other users of the system are permitted to provide content to the second configurable application.

### III. CLAIM CONSTRUCTION

**A. “profile information,” “profile,” and “user profile”  
“biographical application” and “biographical information”  
“administrator portal”  
“business rule”  
“communications application”**

Zak agrees with Facebook’s proposed broadest reasonable interpretations of the following terms:

**“profile information,” “profile,” and “user profile”:** information comprising attributes relating to a user of the system.”

**“biographical application”:** “application that provides biographical information.”

**“biographical information”:** “information about a person or group of persons.”

**“administrator portal”:** “interface for managing applications and/or business rules of the system.”

**“business rule”:** “rule incorporated into the system that controls how the system functions.”

**“communications application”**: “application that provides a mechanism for transmitting information or interacting with others.”

**B. “application” and “configurable application”**

<b>Claims</b>	<b>Claim Term</b>	<b>Zak’s Construction</b>	<b>Facebook’s Construction</b>
11, 14, 15	“application”	“unit of content on a <b>web site.</b> ”	“unit of content on a <b>network site.</b> ”
	“configurable application”	“application that can be modified <b>and/or</b> configured <b>by users of the web site.</b> ”	“application that can be modified <b>or</b> configured.”

In the context of the Challenged Claims, the broadest reasonable interpretation of **“application”** is **“a unit of content provided on a web site.”** The specification of the ‘720 Patent describes an “application” as “a unit of content provided on the network site 34.” Col. 5:9-10 (emphasis added). Facebook advocates this definition. But it is unreasonably broad for the Challenged Claims because the Challenged Claims are all directed to a collection of web pages on a web site, which is a particular type of network site. *See*, e.g., EX. 1001 [‘720 Patent], col. 24:42-43 (“A system, including a computer, for managing content displayable on a collection of web pages...”).

The broadest reasonable interpretation of **“configurable application”** is **“an application that can be modified and/or configured by users of the web site.”** The Challenged Claims explicitly state that “the first configurable application is a biography application.” EX. 1001 [‘720 Patent], col. 24:55-56. The patent

specification explains that the biography application is configured by users of the web site – “A biography object 550 allows persons affiliated with an organization to manage the display of biographical information using the biography application 135 discussed above.” EX. 1001 [‘720 Patent], col. 17:64-66. The Challenged Claims also explicitly state that the second configurable application is configured by users of the web site – Claim 11 provides “wherein the second configurable application is generated by the computer at least in part based on content received from the administrator and at least in part based on content received from one or more of the other users of the system...” EX. 1001 [‘720 Patent], col. 24:58-62. Both the “administrator” and the “other users” recited in Claim 11 are users of the web site. Therefore, Facebook’s proposal that a “configurable application” is an application that can be modified or configured without limiting such modification or configuration to users of the web site is unreasonably broad.

### C. “link” and “application link”

Claims	Claim Term	Zak’s Construction	Facebook’s Construction
11-14, 28	“link”	“mechanism <b>by which users</b> activate an application on a <b>web site</b> .”	“mechanism <b>to</b> activate an application on a <b>network site</b> .”
	“application link”	“link that can be modified or configured <b>by users</b> as permitted by any relevant business rules.”	“link that can be modified or configured as permitted by any relevant business rules.”

In the context of the Challenged Claims, the broadest reasonable interpretation of **“link”** is a **“mechanism by which users activate an application on a web site.”** Facebook’s proposed construction is unreasonably broad because it does not tie the link to activation by a user (leaving open the possibility of activation by a machine). The specification states that “[a] link 32 is the mechanism by which the user 50 of a network site 34 activates the application 30.” EX. 1001 [‘720 Patent], col. 5:53-55, emphasis added. As illustrated above (in connection with the discussion of “configurable application”), Facebook’s proposed construction is also unreasonably broad because all of the Challenged Claims are directed to a collection of web pages on a web site, which is narrower than a network site.

The broadest reasonable interpretation of **“application link”** is **“link that can be modified or configured by users as permitted by any relevant business rules.”** Facebook agrees that the ‘720 Patent makes similar use of the terms “application link” and “configurable link” and that the requirement of “configurability” therefore also applies to the claimed “application link.” *See* Facebook’s Petition, p. 6. The patent specification explains that “A configurable link 32 is a link 32 that can be modified or configured by the content provider 22 as permitted by any relevant business rules.” EX. 1001 [‘720 Patent], col. 5:62-64, emphasis added. Facebook’s proposed construction improperly leaves out that the

application link can be modified or configured by a content provider (i.e. a user of the web site) and is therefore unreasonably broad. Facebook appears to have taken the position that the “by the content provider” language set forth in the specification should be ignored because “content provider” is broadly described in the specification. That is the wrong approach. Although the specification describes “a content provider” as “any person, machine, device or system that is responsible for providing content to a web site” (EX. 1001 [‘720 Patent], col. 3: 53-55), the Challenged Claims describe the content provider as users of the web site – claim 11 provides “wherein the second configurable application is generated by the computer at least in part based on content received from the administrator and at least in part based on content received from one or more of the other users of the system...” EX. 1001 [‘720 Patent], col. 24:58-62. This claim language is directed to a preferred embodiment described in the specification where “the content provider 22 is a person responsible for managing web site content.” EX. 1001 [‘720 Patent], col. 3: 55-56, emphasis added. Therefore, Facebook’s proposal that an “application link” is a link that can be modified or configured as permitted by any relevant business rules without limiting such modification or configuration to users of the web site is *unreasonably* broad.

## IV. ARGUMENT

### A. Summary of Facebook’s Basis For Challenge

Facebook challenges the patentability of Claims 11-30 of the ‘720 Patent (the “Challenged Claims”) on a single ground: **Ground 1** - Claims 11-30 are allegedly unpatentable over Boyce in view of Parker under 35 U.S.C. §103(a). *See* Facebook’s Petition, p. 3.

Facebook alleges that Boyce discloses all of the elements of Claims 11-30. Facebook further cites Parker as allegedly disclosing an “application link” to the extent that Boyce alone does not fully disclose this limitation or render it obvious.

### B. Summary of Argument

The Board should decline to institute a trial on Ground 1 (the sole ground set forth in Facebook’s Petition) because: (i) neither Boyce nor Parker discloses or teaches an “application link” (independent claim 11) that is configurable by a user of the system;<sup>1</sup> and (ii) a person having ordinary skill in the art (a “PHOSITA”) would not have been motivated to modify Outlook Web Access (“OWA”), as disclosed in Boyce, in view of Parker in the manner suggested by Facebook.

First, Facebook’s argument that Boyce discloses or teaches an “application link” hinges on a false premise that a graphical icon or shortcut is a “link.” It is not. When properly construed, a “link” is a “mechanism by which a user of a web

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<sup>1</sup> Facebook and Zak stipulate that an “application link” should be construed the same as a “configurable link,” including that the link is “configurable.”

site activates an application.” The Challenged Claims all require that the “application link” “point to” a configurable application. An icon or shortcut is not a “link” because it does not “point to” and is not capable of “activating” an application. Rather, an icon or shortcut is simply a graphical object that may be *associated* with a link.

Second, Boyce does not disclose or teach that the actual links that are associated with – but which are separate and distinct from – the graphical icons or shortcuts in the OWA Outlook Bar are configurable at all. There is nothing to suggest that they are anything more than conventional static hyperlinks that cannot be configured by users of the system.

Third, even if Boyce’s icons or shortcuts *were* “links” – which they are not – Facebook’s position that the icons or links in the Outlook Bar of OWA are selectively displayed based upon whether a delegate has been given certain rights is factually meritless. Boyce does not disclose or suggest that the delegate/permissions functionality of the traditional desktop version of Outlook/Exchange is incorporated into the web-based OWA at all. Moreover, there is no disclosure or teaching that the icons or shortcuts in the OWA Outlook Bar are selectively displayed, as Facebook claims.

Fourth, Facebook’s reliance on Parker as allegedly disclosing or teaching the “application link” is similarly misplaced. Parker discloses a non-web-based

interface for displaying a folder structure that is accessible from locally networked computers. Parker displays graphical icons whose visual appearance can be modified by the network administrator depending upon which users on the network have been given permission to access the particular folder associated with the icon. Similar to the graphical icons or shortcuts in the OWA application described in Boyce, Parker's graphical icons are not "links" at all because the graphical icons do not "point to" and cannot "activate" applications. There is nothing in Parker that discloses or teaches that any actual underlying link that may be associated with – but is separate and distinct from – Parker's graphical icons is configurable or modifiable by a user of the system.

Finally, a PHOSITA would not be motivated to modify the OWA application disclosed in Boyce in view of Parker in the manner suggested by Facebook. The web-based OWA application disclosed in Boyce is an entirely different type of system than Parker's system for controlling and monitoring shared folders on a local area network by a separate network administrator. Further, Facebook's proposed combination would add functionality to OWA that is not even contemplated in Boyce. Facebook's alleged rationales for the proposed modifications of OWA do not provide a sufficient articulated reason why a PHOSITA would be motivated to combine OWA with Parker to allegedly arrive at the claimed invention.



Therefore, Facebook has failed to demonstrate that it is reasonably likely to succeed in demonstrating that any of the Challenged Claims are unpatentable in view of Boyce and Parker.

### **C. Detailed Argument**

#### **1. The Challenged Claims Recite an “Application Link”**

Each of the Challenged Claims requires an “application link on at least one of the web pages that points to at least one of the plurality of configurable applications...” EX. 1001 [‘720 Patent], col. 24:63-65. The specification of the ‘720 Patent defines a “link” as “the mechanism by which the user 50 of a network site 34 activates the application 30.” EX. 1001 [‘720 Patent], col. 5:53-54. The specification of the ‘720 Patent goes on to state that “[l]inks 32 can encapsulate an URL (uniform resource locator), a TCP/IP address, or any other form of identifying the location of applications 30 on the network site 34.” EX. 1001 [‘720 Patent], col. 5:54-57.

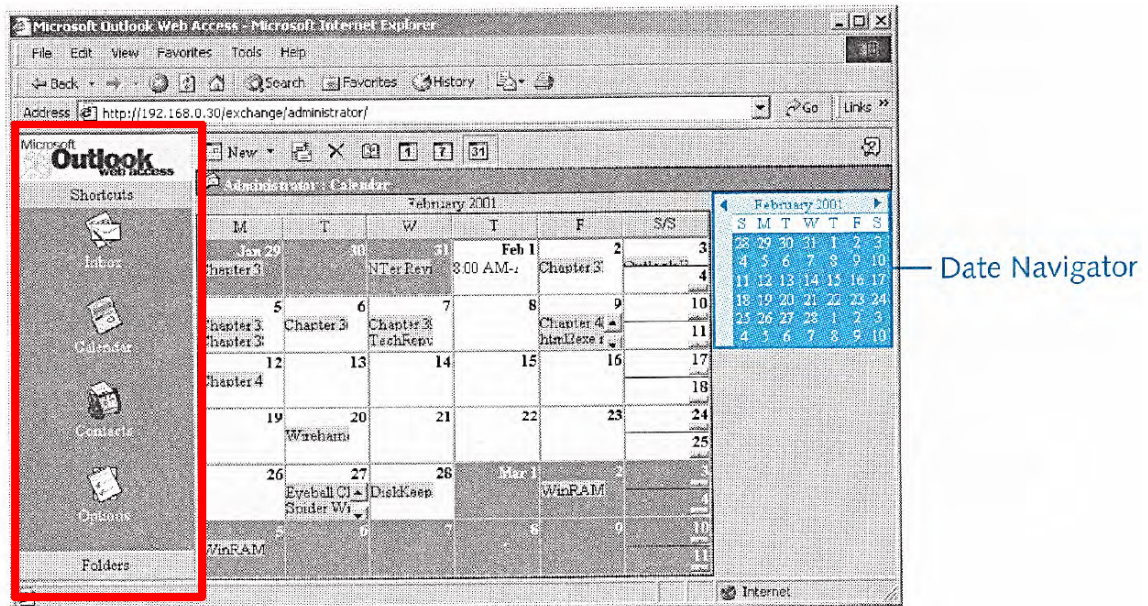
Facebook agrees that the ‘720 Patent makes similar use of the terms “application link” and “configurable link” and that the requirement of “configurability” therefore also applies to the claimed “application link.” *See* Facebook’s Petition, p. 6. The patent specification explains that “[a] configurable link 32 is a link 32 that can be modified or configured by the content provider 22 as permitted by any relevant business rules.” EX. 1001 [‘720 Patent], col. 5:62-64.

Therefore, for the Challenged Claims to be held unpatentable, Boyce alone or in combination with Parker must disclose a mechanism, on one or more web pages, that points to and allows a user to activate at least one of the configurable applications, where the mechanism can be modified or configured by users as permitted by any relevant business rules. Neither Boyce nor Parker discloses such a mechanism.

## **2. Boyce Does Not Disclose or Suggest the Claimed “Application Link”**

### **a. Boyce**

Boyce is a book that instructs readers on how to use the various features of Microsoft Outlook 2002 (“Outlook”). Outlook is a software program that “serves as a personal information manager (PIM), an email application, fax machine, task manager, and much more.” Boyce, p. xli. Boyce explains that access to Outlook is available through two separate and different interfaces: (i) the traditional desktop software application (referred to by Facebook as “Outlook/Exchange”); and (ii) Outlook Web Access (“OWA”). Boyce, pp. 28, 871. OWA is a web-based application that allows users to access many features of Outlook over the internet. Boyce, p. 872. Facebook argues that “[t]he ‘application link’ in Boyce corresponds to [the, sic] clickable icon for the Inbox and associated functionality shown in a left pane (‘Outlook Bar’) of the display below:



**Figure 36-23.** You can view and modify your schedule in OWA.

(Boyce, p.897 (red box added).)” See Facebook’s Petition, p. 37.

These clickable icons or shortcuts are associated with – but separate and distinct from – underlying links to the various applications, e.g., Inbox, Calendar, Contacts, etc., of the logged-in user.

### **b. Facebook’s Position Regarding Boyce**

Facebook asserts that the clickable icons in the Outlook Bar (shown in the red box above) “can be configured, at least because Boyce teaches that whether they are displayed to a delegate depends on the delegate’s privileges, which are configurable by the mailbox owner as permitted by the OWA software (i.e., ‘any relevant business rules’).” Facebook Petition, p. 38. Facebook’s position is wrong because: **(i)** graphical icons or shortcuts are not “links” at all; **(ii)** Boyce does not disclose or teach that the actual “links” associated with the graphical icons or

shortcuts – but which are separate and distinct therefrom – are “configurable” in any way; and (iii) even if graphical icons or shortcuts were “links” – which they are not – Boyce does not disclose or teach that the graphical icons or shortcuts in the Outlook Bar of OWA are selectively displayed, as Facebook alleges.

**c. The Clickable Icons or Shortcuts in Boyce Are Not “Links”**

The clickable icons or shortcuts in the left hand pane in Figure 36-23 are not “links” at all. A “link” is a “mechanism by which users activate an application on a web site.” The Challenged Claims all further recite that the claimed “links” must “point[] to at least one of the plurality of configurable applications.” *See*, e.g. claim 11, col. 24:64-65. The ‘720 Patent states that “[l]inks 32 can encapsulate an URL (uniform resource locator), a TCP/IP address, or any other form of identifying the location of applications 30 on the network site 34.” EX. \_ [‘720 Patent], col. 5:54-57. There is no suggestion in the ‘720 Patent that Zak intended a “link” – a mechanism that “points to” and “activates” an application – comprises a purely graphical icon or shortcut, which does not “point to” or have the ability to “activate” an application. The ‘720 Patent does not suggest that a “link” has any particular graphical or esthetic aspect.

A PHOSITA understands that graphical icons or shortcuts are simply not mechanisms that “point to” and “activate” configurable applications. *See*, EX 2001 [Mangione-Smith Decl.], ¶¶43-52. Rather, they are merely images that are

*associated with* – but separate and distinct from – the underlying links that actually point to and are used to activate the applications. *Id.* The graphical icons have no functionality other than visual esthetic purposes. *Id.*, at ¶43.

Facebook does not provide any reasoned argument or evidence for its position that graphical icons or shortcuts either “point to” or are used to “activate applications,” but instead just summarily asserts that such icons or shortcuts are “links.” Indeed, Facebook implicitly admits that the graphical icons or shortcuts are merely associated with – but separate and distinct from – underlying URLs that actually “point to” and function to “activate” the applications: “folders, in addition to individual items such as messages, have associated URLs ... the OWA inbox, contacts and calendar web pages of a particular user are accessible using similar URL addressing.” Facebook’s Petition, p. 55 (emphasis added).

Therefore, the foundational premise of Facebook’s position, i.e., that graphical icons or shortcuts are “links” is unsupported and flawed.

**d. Boyce Does Not Disclose A “Link” That Is “Configurable”**

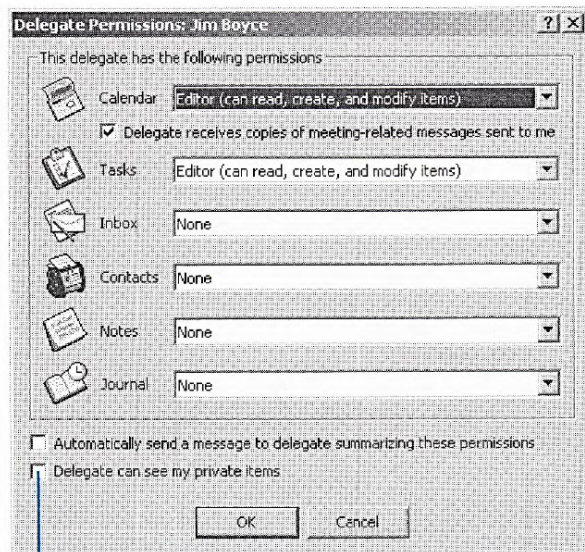
Boyce does not disclose or teach that any actual “link” is configurable. The actual “links” in OWA are the underlying hyperlinks that are *associated with* – but separate and distinct from – the graphical icons or shortcuts. It is these hyperlinks that “point to” and have the ability to “activate” applications. Boyce does not

disclose or teach that any of these hyperlinks are “configurable.” Indeed, Facebook does not even attempt to demonstrate that it does.

**e. The Clickable Icons or Shortcuts In The Outlook Bar of OWA Are Not Selectively Displayable**

Finally, even if the clickable icons or shortcuts in the Outlook Bar of OWA (shown in Figure 36-23 of Boyce) were “links” – which they are not – Boyce does not disclose or teach that they are “configurable.” To that point, Facebook asserts that the clickable icons or shortcuts in OWA “can be **configured**, at least because Boyce teaches that their display to a delegate depends on the delegate’s privileges, which are configurable by the mailbox owner as permitted by the OWA software (i.e., ‘any relevant business rules’).” Facebook Petition, p. 38. In other words, Facebook contends that clickable icons or shortcuts in the Outlook Bar of OWA are either displayed or not displayed, depending on whether the particular user has certain delegated rights to another user’s Outlook folders. But Facebook’s description of Boyce’s teaching is simply wrong. Facebook’s argument rests on an impermissible conflation of the traditional desktop version of Outlook/Exchange with the web-based OWA and furthered by a completely unsupported leap in describing the allegedly selective display of clickable icons based on delegation permissions that simply do not exist in OWA.

The delegation feature in the traditional desktop software application of Outlook, described in Chapter 27 of Boyce, allows a mailbox owner to give other users read-only access or read-and-write access to their “Calendar,” “Tasks,” “Inbox,” “Contacts,” “Notes,” and “Journal” applications using the “Delegate Permissions” window displayed below:

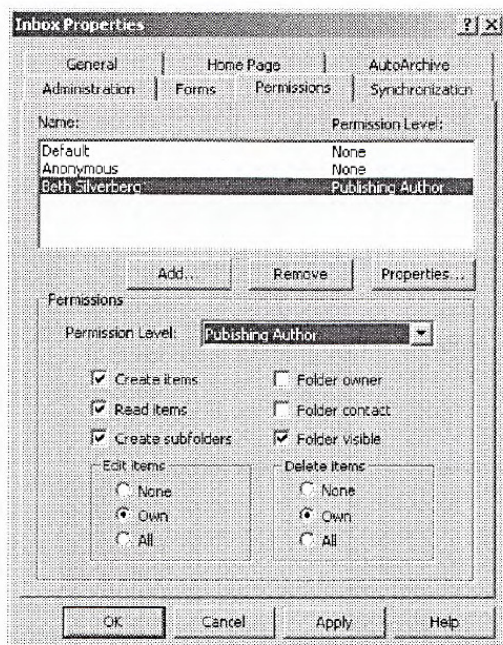


**Figure 20-5.** Use the Delegate Permissions dialog box to control the visibility of private items.

Boyce, p. 553.

Boyce also describes using the window depicted below to set permissions for a particular folder and/or hide folders from view:

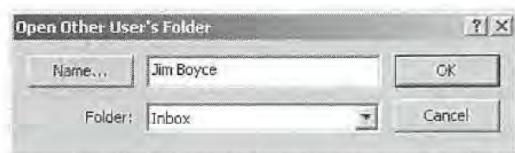




**Figure 27-5.** Use the Permissions tab to configure access permissions for the folder.

Boyce, p. 687.

Boyce further discloses in Chapter 27 that users acting as a delegate for another person can access the other person's folders using the dialog box picture below in Figure 27-4:



**Figure 27-4.** Use the Open Other User's Folder dialog box to open another person's Outlook folder.

Boyce, p. 684.

Critically, all of this delegate functionality is described in Chapter 27 of Boyce in connection with the traditional desktop Outlook/Exchange, **not** the web-



based OWA. Boyce does not disclose or suggest that the delegation/permissions interfaces of Outlook/Exchange are incorporated into OWA such that an OWA user could configure the delegation/permissions and/or access other users' folders. The only discussion of OWA appears in Chapter 36 of Boyce, some 200 pages after Boyce's discussion of delegation functionality in the desktop version of Outlook/Exchange. There is no discussion of delegation functionality in Chapter 36, or anywhere else in Boyce, in connection with OWA. Both Facebook and Klausner admit that "Boyce does not appear to expressly state that the 'delegate' functionality is incorporated into OWA..." Facebook's Petition, p. 22; EX 1002 [Klausner Decl.], ¶116.

However, in essentially the same breath, Facebook and Klausner make the irreconcilable assertion that "Boyce also indicates that delegation functionality is incorporated into OWA..." Facebook's Petition, p. 22; EX 1002 [Klausner Decl.], ¶115, ¶61. In alleged support of this conflicting position, Facebook appears to rely on a single sentence in Chapter 36 of Boyce: "Explicit logon is useful when you need to access a mailbox you don't own but for which you have access permissions." *See* Petition, p. 13, *citing* EX 1002 [Klausner Decl.], ¶61 and EX 1003 [Boyce], p. 878. This sentence appears in a section of Chapter 36 titled "Topology Considerations for Deploying OWA," which describes the relative benefits of using multiple servers and employing a "front-end-back-end server

scheme” when an organization provides access to its Exchange Servers through OWA (and other protocols, such as IMAP or POP3) on the Internet. EX 1003 [Boyce], pp. 876-877. The preceding sentences makes clear that “explicit logon” refers to a user logging into an Outlook account through the “back-end server” using a full URL (including the account ID), as opposed to an “implicit logon,” which refers to a user logging into an Outlook account through the “front-end server” using a shortened URL (not including the account ID). See, EX 1003 [Boyce], p. 878. There is no mention of delegation functionality in Chapter 36, or anywhere else in Boyce in connection with OWA. There is no suggestion that a user who logs into his/her own Outlook account through OWA can access as a delegate any other user’s folders on the system. Boyce’s observation that “[e]xplicit logon is useful when you need to access a mailbox you don’t own but for which you have access permissions” at best suggests to a PHOSITA that an Outlook user can explicitly and directly log into a different user’s account through OWA if they know that other user’s account ID and password. See, EX 2001 [Mangione-Smith Decl.], ¶¶53-54.

Moreover, there is no suggestion that a user logged into his/her own Outlook account through OWA would see selectively-displayed icons or shortcuts to other user’s folders in the Outlook Bar (left-hand pane). That is, there is no suggestion anywhere in Boyce that a user will ever see anything in the Outlook Bar other than

what is precisely shown in Figure 36-23 (above), which are icons or shortcuts associated with underlying links to the logged-in user's own Outlook data. Indeed, Figure 36-23 (above) illustrates the logged-in user's view of his/her own "Inbox," "Calendar," "Contacts," and "Options" applications. Facebook's argument that icons or shortcuts associated with links to *other users'* Outlook data are selectively displayed in the Outlook Bar of the logged-in user (in addition to or in place of the logged-in user's own icons or shortcuts), depending on delegation rights, is not shown anywhere in Boyce and is entirely unsupported and meritless.

Even if a person of ordinary skill in the art were motivated to incorporate the delegation features of Outlook/Exchange into OWA, the most logical approach would have been to utilize a dialog box and drop-down menu similar to the one used in Outlook/Exchange (shown above in Figure 27-4). *See*, EX 2001 [Mangione-Smith Decl.], ¶¶39-40. This dialog box and drop-down menu approach does not include any links that can be modified or configured and therefore does not reach the limitations of the Challenged Claims. A person of ordinary skill in the art would not have cast the existing dialog box and drop-down menu interface aside in favor of modifying the clickable icons displayed in Figure 36-23 as Facebook suggests, particularly when Boyce does not provide any motivation for doing so. *See*, EX 2001 [Mangione-Smith Decl.], ¶¶39-40.

### **3. The Combination Of Boyce And Parker Does Not Disclose The Claimed “Application Link”**

As a fallback position, Facebook relies on Parker as allegedly disclosing “application links” and argues that it would have been obvious to modify Boyce’s OWA in view of Parker. Facebook’s position is meritless because: (i) Parker does not disclose or teach the claimed “application link”; and (ii) it would not have been obvious to a PHOSITA to modify Boyce’s OWA in view of Parker in the manner suggested by Facebook.

#### **a. Parker’s Disclosure**

Parker is directed to a file service administration method by a separate network administrator in a computer network having an administrator account and a user account. EX. 1004 [Parker], Abstract. In particular, Parker teaches a method and system for “controlling and monitoring user access to shared resources on a computer network.” *Id.*, at 1:5-8. Parker is not a web-based system. Instead, Parker is designed for use with locally networked computers, such as the computer network illustrate in Parker’s Figure 1 (below):

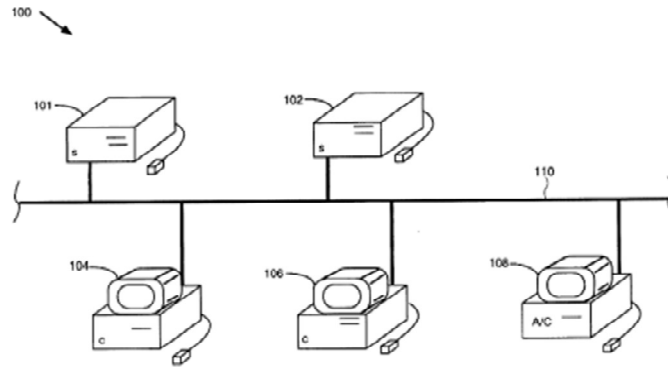


FIG. 1

Such networks 100 include one or more servers 101, 102 that are connected to one or more client terminals 104, 106 by a network bus 110. *Id.* at 1:39-47.

Parker teaches that access privileges to the network file service provided by the servers 101, 102 are controlled by a single administrator using an administrative console 108 that is also connected to the network bus 110. *Id.* at 2:10-13. As shown in Figure 7 (reproduced below), Parker teaches altering the visual representation of folder icons to graphically indicate the access privileges granted to a user:

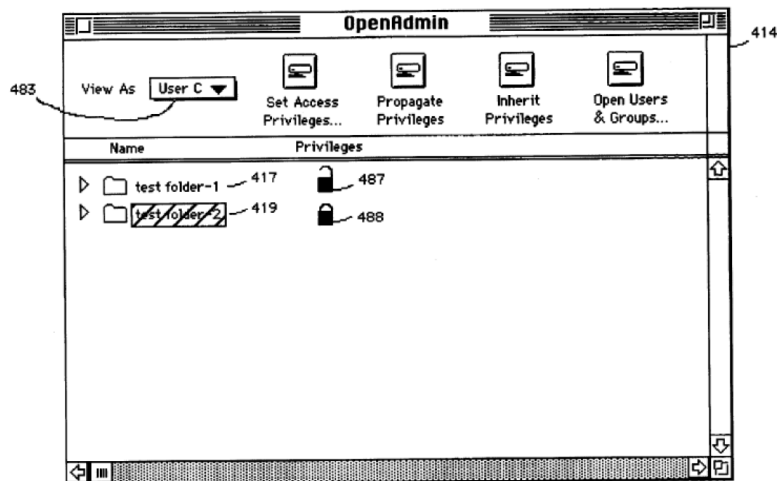


FIG. 7

In Figure 7, for example, the administrator is able to view a directory listing as it would be seen by “User C,” which illustrates that “test folder-1” is accessible by User C, but “test folder-2” is not accessible by User C by using different graphical icons (e.g., crossed lines and a locked padlock to illustrate “no access”). EX 1004 [Parker], 11:32-49.

**b. Parker Does Not Disclose or Teach an “Application Link”**

Similar to its position with respect to Boyce, Facebook argues that Parker discloses an “application link” because Parker discloses graphical icons that are visually modifiable to reflect access privileges of users to shared folders. *See* Facebook’s Petition, p. 42. Facebook’s position again depends upon its unsupported assertion that purely esthetical, graphical icons that neither “point to” nor are capable of “activating” an application, comprise the claimed “links” in the Challenged Claims. For the reasons set forth above, Parker’s graphical icons are not “links” at all. The graphical icons do not satisfy the requirements of a “link” in the Challenged Claims, i.e., they are not mechanisms that “point to” and that are capable of “activating” an application.

Because Parker is not a web-based system, Parker does not even employ hyperlinks or URLs. *See*, EX 2001 [Mangione-Smith Decl.], ¶¶55-57. Instead, Parker’s shared folders have folder names and are stored in conventional hieratical directories, which is not a “link.” But even if Parker’s directory path associated

with a shared folder were considered a “link,” Parker does not disclose that it is “configurable” by users of the system. *Id.* Facebook does not even assert that Parker discloses a “link” underlying the graphical icons that is configurable by a user of the system. *Id.*

At least because neither Boyce nor Parker disclose an “application link” that is configurable by a user of the system, the combination of Boyce and Parker does not disclose all of the elements of the Challenged Claims. Therefore, Facebook’s Petition for IPR should not be instituted.

#### **4. A PHOSITA Would Not Have Been Motivated To Modify Boyce In View of Parker In The Manner Asserted By Facebook**

An obviousness determination requires that a PHOSITA have a motivation to combine the prior art to achieve the claimed invention. *See In Re Nuvasive, Inc.*, 2016 U.S. App. LEXIS 21748, \*7-8 (Fed. Cir. December 7, 2016) (*citing In re Warsaw Orthopedic, Inc.*, 832 F.3d 1327, 1333 (Fed. Cir. 2016); *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007)). The Board “must make a finding of a motivation to combine [references] when it is disputed.” *Id.*, at \*10(*citing In Re Lee*, 277 F.3d 1338, 1343-1345 (Fed. Cir. 2002); *KSR*, 550 U.S. at 418). Further, the Board “must articulate a *reason why* a PHOSITA would combine the prior art references.” *Id.* (emphasis in original). Facebook has failed to demonstrate a rational reason why a PHOSITA would have been motivated to modify Boyce’s OWA application in view of Parker to arrive at the claimed invention.

First, Facebook suggests that it would have been obvious to a PHOSITA to adapt the “use interface techniques of Parker to Boyce” so that OWA, as disclosed in Boyce, would have the “additional ability to adapt the display of the clickable icons for each delegate, based on the permissions granted to the delegate.” *See* Facebook’s Petition, p. 45. In other words, Facebook says that a PHOSITA would have been motivated to use Parker’s crossed lines, locked padlock or other modified icons to reflect which *other users’* folders the logged-in user could access as a delegate. But, as set forth above, there is absolutely no suggestion in Boyce or otherwise that the delegate/permissions functionality was incorporated in the web-based OWA. Facebook suggests using Parker to modify or enhance a functionality was not disclosed as being part of OWA in the first place. Therefore, the premise of Facebook’s position just does not make sense. EX 2001 [Mangione-Smith Decl.], ¶¶58-60.

Even if the delegation/permissions functionality of the conventional desktop version of Outlook/Exchange was disclosed as existing in the web-based OWA – which it was not – Facebook’s suggestion that incorporating Parker’s method of identifying all shared folders and visually indicating access permissions with different graphical icons would be untenable. Such a combination would result in a version of OWA wherein the Outlook Bar listed the Inbox, Calendar, Contacts, etc. for every user on the system, where the graphical icon for each application was



different depending on whether the logged-in user had access permission or not. In an office setting with hundreds of users, the Outlook Bar would have hundreds of icons for Inbox, Calendar, Contacts, etc. The Outlook Bar would be essentially unusable. EX 2001 [Mangione-Smith Decl.], ¶60.

Second, Facebook argues that OWA, as disclosed in Boyce, and Parker's system for controlling and monitoring shared folders on a local area network are "similar systems" and employ "similar interfaces" for granting access rights and displaying shared folders. *See* Facebook's Petition, p. 44. Facebook's position is factually incorrect. Boyce's web-based system for end-users to organize email, contacts and calendars is entirely different from Parker's non-web-based system for a separate network administrator to control and monitor shared folders on a local area network. EX 2001 [Mangione-Smith Decl.], ¶¶58-60. Indeed, the non-web-based Parker system does not even involve "links" that "point to" and "activate" applications at all. *Id.* The technologies in Boyce's OWA and Parker's system are entirely different.

For these reasons, Facebook has not carried its burden of setting forth an articulated and rational reason why a PHOSITA would have been motivated to modify OWA in view of Parker as suggested by Facebook.

## **5. Facebook’s Analysis Of Claim 13 Demonstrates Why The Icons Disclosed In Boyce And Parker Are Not “Application Links”**

Facebook’s analysis of dependent Claim 13 showcases the reasons why its attempt to equate the icons/shortcuts disclosed in Boyce and Parker to the “application link” recited in the Challenged Claims is wrong. Facebook argues that “Boyce discloses and suggests that a clickable icon includes a hyperlinked URL that points to the corresponding OWA web page of a particular user.” Facebook’s Petition, p. 55, emphasis added. Claim 13 does not call for an “application link” that includes a URL (i.e. that a URL is part of the application link), but rather specifies that “the application link is a URL.” EX. 1001 [‘720 Patent], col. 25:15-16, emphasis added. It is therefore clear from the plain language of the Challenged Claims that the claimed “application link” is not the same as an icon or shortcut. While an icon or shortcut may be *associated* with an underlying URL link, an icon or shortcut is an object (i.e., a graphic) and is not itself a link, such as a URL. EX. 2001 [Decl. of Bill Mangione-Smith], ¶43. Facebook’s attempt to equate visual icons on a computer interface to the claimed “application link” cannot be reconciled with the plain language of claim 13.

## **V. CONCLUSION**

The Board should decline to institute a trial on Ground 1 (the sole ground set forth in Facebook’s Petition) because: (i) neither Boyce nor Parker discloses or teaches an “application link” (independent claims 11) that is configurable by a user

of the system; and (ii) a PHOSITA would not have been motivated to modify Boyce's OWA in view of Parker in the manner suggested by Facebook. Facebook has not carried its burden under 35 U.S.C. §314(a) of demonstrating that it is more likely than not to prevail in the IPR.

Therefore, for the reasons set forth above, Patent Owner Bruce Zak respectfully requests that the Board decline to institute an *inter partes* trial with respect to the '720 Patent. Facebook's Petition should be denied in its entirety.

Dated: January 5, 2017

Respectfully submitted by:

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## CERTIFICATION OF SERVICE

Pursuant to 37 C.F.R. §§42.6(e), this is to certify that on the 5th day of January 2017, a true and correct copy of the PATENT OWNER'S PRELIMINARY RESPONSE was served via Electronic Email upon the following:

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