



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

3 Examiner: Chirag R. Patel Art Unit: 2141

4 In re Application of Jed Margolin
5 3570 Pleasant Echo Dr.
6 San Jose, CA 95148-1916
7 Phone: 408-238-4564

8 Serial No. 09/947,801 Filed: 09/06/2001

9 For: DISTRIBUTED COMPUTING SYSTEM

10
11 Mail Stop AF
12 Commissioner for Patents
13 P.O. Box 1450
14 Alexandria, VA 22313-1450
15

16
17 Dear Sir:

18 Please consider the following remarks.

19

20 **Pre-Appeal Brief Request for Review**

21

22 Claims 1 - 5 were rejected solely under 35 U.S.C. §102(e) as being anticipated by Ellis (US
23 6,167,428 **Personal computer microprocessor firewalls for internet distributed processing.**

24

25 **Applicant's Invention**

26 Applicant's invention performs distributed computing using the otherwise unused resources of
27 a Home Network Server in a subscriber's home. The Home Network Server has Home Network client
28 devices such as PCs as well as sensors and actuators used for Home Automation. An Internet
29 connection allows the otherwise unused resources of the Home Network Server to be used for
30 distributed computing by a contracting company. In return, the subscriber receives something of value
31 such as reduced cost of Internet service, free Internet service, or a net payment. The advantage of using
32 the Home Network Server for distributed computing is that it allows the distributed computing to be
33 performed in a computer with a stable, robust operating system while allowing Users to continue to use
34 the existing operating systems and software in their PCs. The Home Network Server's clients are not
35 used for distributed computing.

36

Ellis' Invention

Ellis describes his invention in Column 7 lines 27 – 36 as follows:

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

The new network computer will utilize PC's as providers of computing power to the network, not just users of network services. These connections between network and personal computer are enabled by a new form of computer/network financial structure that is rooted on the fact that economic resources being provided the network by PC owners (or leaser) are similar in value to those being provided by the network provider providing connectivity.

Issues

The main issues in dispute are:

1. The Examiner erroneously asserts that the Network Server (2) shown in Ellis is the same as the Home Network Server (101) used by Applicant and performs the same function.
2. The Examiner erroneously defines the term *subscriber* in a way that is not consistent with Applicant's use of the term, denying Applicant the right to act as his own lexicographer even if it is to use the ordinary meaning of the term.
3. The Examiner's supervisor erroneously denies Applicant the right to act as his own lexicographer even if it is to use the ordinary meaning of the term *home*.

Since these errors made by the Examiners show a lack of understanding of the essence of Ellis' invention and/or Applicant's invention no discussion of Applicant's claims was possible.

Detailed Discussion

1. The Examiner erroneously asserts that the Network Server (2) shown in Ellis is the same as the Home Network Server (101) used by Applicant and performs the same function.

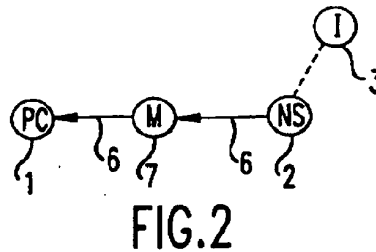
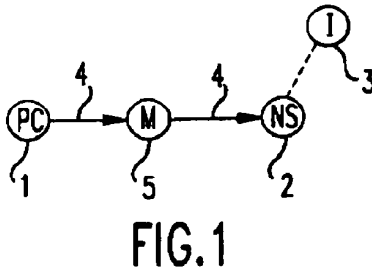
Applicant believes Applicant's Home Network Server has already been sufficiently characterized above in ***Applicant's Invention.***

The Network Server NS2 shown by Ellis in numerous figures is part of the ISP's equipment. In the interests of brevity two will be discussed. From Ellis Column 6 BRIEF DESCRIPTION OF THE DRAWINGS:

FIG. 1 is a simplified diagram of a section of a computer network, such as the Internet, showing an embodiment of a meter means which measures flow of computing during a shared operation such as parallel processing between a typical PC user and a network provider.

1 FIG. 2 is a simplified diagram of a section of a computer network, such as the Internet,
 2 showing an embodiment of another meter means which measures the flow of network
 3 resources, including shared processing, being provided to a typical PC user and a network
 4 provider.
 5

6 Ellis Figures 1 and 2 are reproduced below:



13 In Ellis Figure 1, Meter M5 is located between PC1 and Network Server NS2 and in Ellis Figure 2
 14 Meter M7 is located between PC1 and Network Server NS2. According to Ellis, it is the computing
 15 resources of PC1 that are used for distributed computing for which Ellis receives payment of one kind
 16 or another. Network Server NS2 is part of the ISP's equipment and is therefore not a Home Network
 17 Server 101 as taught by Applicant. If Ellis' Network Server NS2 were the same as Applicant's Home
 18 Network Server 101, then Ellis's financial arrangement would be with himself. This interpretation
 19 would render Ellis' patent invalid for lack of usefulness. Since issued patents are presumed valid such
 20 an interpretation is impermissible. However, it is clear that Ellis intends his financial arrangement to be
 21 with a separate party. From Column 10 lines 1-6:

22 The financial basis of the shared use between owners/lesers and providers would be
 23 whatever terms to which the parties agree, subject to governing laws, regulations, or rules,
 24 including payment from either party to the other based on periodic measurement of net use or
 25 provision of processing power
 26

27 Also, since Ellis' Network Server NS2 is part of the ISP's equipment, if the resources of NS2 were
 28 used for distributed computing then Ellis' ISP would be paying him for using their own equipment.
 29

30 The Examiner's insistence that Ellis shows a Home Network Server extends to erroneously
 31 referring to Ellis' Network Server (NS2) as *Home Network Server (2)*, a term that Ellis himself never
 32 uses. See Second Office Action of 6/15/2005 page 2, Rejection 2, and Examiner's Summary of
 33 Telephone Interview held 08/09/2005 where the Examiner states (page 3, top of page): *Examiner*
 34 *pointed out Ellis's home network server is the same as applicant's invention in that it provides a*
 35 *connection to the internet and one or more home network client devices that participates in the*
 36 *shared computer processing.* In addition to erroneously referring to Ellis' Network Server (2) as a

1 home network server, the Examiner makes the statement that Applicant's home network server's client
 2 devices participate in the shared computer processing. Applicant has always asserted that his
 3 distributed computing arrangement is for the use of the Home Network Server's resources, and that
 4 one of the advantages of this arrangement is that the client devices are not used for distributed
 5 computing. (Note: Applicant does not believe the Examiner actually made this statement during the
 6 interview as reported in Examiner's Summary.)

7
 8 ***2. The Examiner erroneously defines the term subscriber in a way that is not consistent with***
 9 ***Applicant's use of the term, denying Applicant the right to act as his own lexicographer even if it is***
 10 ***to use the ordinary meaning of the term.***

11 In the Second Office Action of 6/15/2005 (page 2, Section 1 last line), The Examiner states
 12 "*When a device receives a service, is interpreted by the examiner to mean "subscribing" to a*
 13 *service.*" This interpretation is not supported by Applicant's use of the term. Applicant used the
 14 common meaning of the term. From the online version of the American Heritage ® Dictionary of the
 15 English Language, Fourth Edition at <http://www.yourdictionary.com/ahd/s/s0850100.html> :

16 sub·scribe Listen: [sb-skrb]
 17 v. sub·scribed, sub·scrib·ing, sub·scribes
 18 v. tr.
 19 1. To pledge or contribute (a sum of money).
 20 2. To sign (one's name) at the end of a document.
 21 3. To sign one's name to in attestation, testimony, or consent: subscribe a will.
 22 4. To authorize (someone) to receive or access electronic texts or services, especially over the
 23 Internet.
 24
 25 v. intr.
 26 1. a. To contract to receive and pay for a certain number of issues of a publication, for tickets to a
 27 series of events or performances, or for a utility service, for example. b. To receive or be allowed
 28 to access electronic texts or services by subscription.
 29 2. To promise to pay or contribute money: subscribe to a charity.
 30 3. To feel or express hearty approval: I subscribe to your opinion. See Synonyms at assent.
 31 4. To sign one's name.
 32 5. To affix one's signature to a document as a witness or to show consent.
 33
 34 [Middle English subscriben, to sign, from Latin subscribere : sub-, sub- + scribere, to write; see
 35 skrbh- in Indo-European roots.] sub·scriber n.
 36

37 All of these definitions imply that the subscriber is a person. In all of the instances in the present
 38 application it is clear from the context that the subscriber is a person, nominally the owner of the Home
 39 Network. For example, from paragraph 0016 of the present Application:

[0016] In exchange for the use of the otherwise unused capacity of the Home Network Server for distributed computing, the contracting company provides the subscriber (*nominally the owner of the Home Network*) something of value such as reduced cost of Internet service, free Internet service, or a net payment.

The subscriber is a person. Applicant's devices are not persons and are therefore not subscribers.

3. The Examiner's supervisor erroneously denies Applicant the right to act as his own lexicographer even if it is to use the ordinary meaning of the term home.

During the Telephone Interview of August 25, 2005, in an attempt to discuss the everyday meaning of common terms, Applicant thought the word *home* would be good place to start. Applicant was wrong. The Examiner's supervisor asserted that he considers his office at the Patent Office his *home* even though he owns a house. Realizing that the Examiner's supervisor was being ironic, disingenuous, or was literally living in his office at the Patent Office, Applicant determined that the Examiner's supervisor was not serious about advancing the case.

Therefore, since Ellis does not teach a Home Network Server in a subscriber's home and since the otherwise unused resources of Ellis' Network Server 2 are not used for distributed computing in return for something of value from a contracting company, as well as for other good reasons omitted for the purpose of brevity, Applicant believes all rejections have been traversed and requests the Application be allowed as filed.

Respectfully submitted,

Jed Margolin

Jed Margolin
pro se inventor
September 6, 2005

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on the date shown below.

Date: September 6, 2005

Inventor's Signature: *Jed Margolin*