

**IN THE UNITED STATES PATENT TRIAL AND APPEAL BOARD**

In re *Post-Grant Review* of: )  
)  
U.S. Patent No. 6,553,350 ) U.S. Class: 705/20  
)  
Issued: April 22, 2003 ) Group Art Unit: 3628  
)  
Inventor: Thomas J. CARTER III ) Confirmation No. 5578  
)  
Application No.: 09/253,427 )  
)  
Filed: February 19, 1999 )  
) FILED ELECTRONICALLY  
For: METHOD AND APPARATUS ) PER 37 C.F.R. § 42.6(b)  
FOR PRICING PRODUCTS IN )  
MULTI-LEVEL PRODUCT AND )  
ORGANIZATIONAL GROUPS )

**Mail Stop Patent Board** (37 C.F.R. § 42.6(b)(2))  
Patent Trial and Appeal Board  
U.S.P.T.O.  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**DECLARATION OF JODI L. GREGORY**

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I, JODI L. GREGORY, hereby declare that:

1. I am over the age of 21, and I have personal knowledge of the facts contained herein unless otherwise indicated.

2. I am the founder and President of Access Information Services, Inc., which provides customized business research and analyses. I have been employed there since 1988. My duties include research and analysis, and I conduct workshops on Internet research. I am regularly engaged by a wide variety of companies to conduct research regarding the availability of scientific literature.

3. From 1989 to 1994, I was also Manager of the Information & Analysis Center with UES Inc., a research, development, and technology creation and transfer company. My work duties there included creating and managing a centralized information resource center, managing research on over 200 companies and their competitors, and acquiring online databases, end-user tools, collection development systems, and database management systems.

4. I have served on the Association of Independent Information Professionals' Board of Directors, and I have held the positions of President-Elect and President of the Association.

5. A true and correct copy of my Curriculum Vitae is attached hereto as Exhibit A.

6. I have been asked to provide an opinion regarding the public accessibility of the following references:

- August 29, 1994 press release from Business Wire entitled "SAP announces significant new release of its industry-leading client/server applications; Version 2.2 incorporates functionality slated for 1995 but available today"
- June 14, 1995 press release from Business Wire entitled "HP and SAP Release Highest-Ever Benchmarking Results For SAP'S R/3 Application Suite; 900 SAP R/3 Benchmark Users Recorded"
- May 26, 1995 article from MIDRANGE Systems entitled "Process industry software. (SAP America Inc. introduce PI-PI software for process industries)"
- January 21, 1995 article from InformationWeek entitled "Survey Sees C-S Payoff"
- September 12, 1994 article from InformationWeek entitled "Are SAP's R/2 Users Stranded?"
- December 7, 1994 press release from M2 Presswire entitled "SAP Announces Significant New Release of R/3 Client/Server Applications Software for Windows NT"
- October 11, 1994 press release from PR Newswire entitled "Data General Unix Based Systems to Support Oracle Database for SAP R/3 Systems Running on Windows NT Servers"
- January 4, 1995 press release from Business Wire entitled "Shipments underway of Data General UNIX based database servers for SAP R/3 Systems Running on Windows NT Servers"
- April 24, 1995 article from InformationWeek entitled "Enterprise Applications: SAP America's Trojan Horse -- The software maker infiltrated the U.S. with mainframe-based R/2 software. Now it aims to conquer with R/3 client-server applications"

- August 29, 1994 article from Computerworld entitled "SAP, Microsoft extend relationship"
- March 27, 1995 article from Computerworld entitled "Not so fast Users of SAP's R/3 client/server tools say some installations not as quick as vendor claims"
- May 22, 1995 article from Infoworld entitled "Vendors to lighten up client/server apps"
- April 24, 1995 article from InformationWeek entitled "Technology Assessment: Old School: 3R's New School: R/3 -- High marks: R/3's strength lies in its high degree of integration"
- April 24, 1995 article from InformationWeek entitled "R/3 Spells Success#"
- August 7, 1994 article from BusinessWeek entitled "America's Latest Software Success Story is German"
- January 21, 1995 article from InformationWeek entitled "KPMG Answers Call for SAP - - Acquisition adds plenty of R/2, R/3 experience"
- April 24, 1995 article from InformationWeek entitled "Pentax Focuses on Customers -- Camera maker uses SAP's R/3 software to handle client queries faster"
- March 27, 1995 advertisement from Computerworld, Vol. 29 Issue 13, Computer World MPP & SMP p. 148 Cover Page URL:  
[http://books.google.com/books?id=3JS8X7n5yIoC&lpg=PA1&as\\_pt=MAGAZINES&pg=PA1#v=onepage&q&f=false](http://books.google.com/books?id=3JS8X7n5yIoC&lpg=PA1&as_pt=MAGAZINES&pg=PA1#v=onepage&q&f=false)
- April 15, 1994 advertisement from CIO, Vol. 7 Issue 13, CIO p. 69 Issue URL:  
<http://books.google.com/books?id=8QwAAAAAMBAJ&lpg=PA19-IA1&ots=6ufmTEhEUa&dq=cio%201994&pg=PA19-IA1#v=onepage&q=cio%201994&f=false>

7. A true and accurate copy of each of the above listed references is included in Exhibit B.

8. For the reasons detailed below, based on my research in this matter, it is my opinion that the above listed references were each publicly accessible prior to June 16, 1995, so that interested members of the public could have obtained the articles with reasonable diligence if they so desired.

9. The reference located on pages 2-3 was retrieved from the publisher's website where it was posted on August 7, 1994. It is my opinion that the reference on pages 2-3 of

Exhibit B was publicly accessible at the time of its respective posted date, and certainly prior to June 16, 1995, so that interested members of the public could have obtained the references with reasonable diligence if they so desired.

10. The references on pages 4-19 and 21-36 in Exhibit B were retrieved from the online database named Factiva. Factiva is a database of licensed content from seasoned Dow Jones journalists and the world's top media outlets, trade and consumer publications and business Web sites—filtered to reveal the best and most reliable results. It is my opinion that each of the references on pages 4-19 and 21-36 of Exhibit B were publicly accessible at the time of their respective publication dates, and certainly prior to June 16, 1995, so that interested members of the public could have obtained the references with reasonable diligence if they so desired.

11. The article on page 20 in Exhibit B (entitled “Vendors to lighten up client/server apps.”) was retrieved from an online database named Dialog, owned by the ProQuest Company. Dialog is the world’s leading aggregator of intellectual property, scientific literature and business information from the most renowned publishers in the industry. It contains 900 databases consisting of searchable content including articles and reports from thousands of real-time news feeds, newspapers, broadcast transcripts and trade publications, plus market research reports and analyst notes as well as in-depth repositories of scientific and technical data. Most government documents that have been made public are generally available on Dialog. It is my opinion that the reference on page 20 of Exhibit B was publicly accessible at the time of its publication date, and certainly prior to June 16, 1995, so that interested members of the public could have obtained the reference with reasonable diligence if they so desired.

12. The advertisements shown on pages 37-38 of Exhibit B appeared in the publications named ComputerWorld and CIO Magazine, respectively. The advertisements were retrieved utilizing a search in Google Books. I contacted the publishers of ComputerWorld and CIO magazines to confirm the public accessibility of the magazines at the time of their respective publication dates. The publishers of each of the magazine publications directed me to the Google Books website in order to obtain copies of the advertisements and confirmed that the Google Books images were duplicates of the actual publication as they were originally published in the respective magazines. It is my opinion that the advertisements on pages 37-38 of Exhibit B were publicly accessible at the time of the publication dates of the ComputerWorld and CIO magazines, respectively, and certainly were available prior to June 16, 1995, so that interested members of the public could have obtained the reference with reasonable diligence if they so desired.

13. While I am being compensated on behalf of the petitioner at the rate of \$125 per hour for my services in this matter, I have no interest in the above-identified proceeding.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 15, 2012

  
\_\_\_\_\_  
Jodi L. Gregory

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