

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

|  |  |  |                  |
|--|--|--|------------------|
| Applicant's or agent's file reference<br>40236-69368   | <b>FOR FURTHER ACTION</b>  |  | See item 4 below |
| International application No.<br>PCT/US2007/071238   | International filing date ( <i>day/month/year</i> )<br>14 June 2007 (14.06.2007) | Priority date ( <i>day/month/year</i> )<br>16 June 2006 (16.06.2006) |                  |
| International Patent Classification (8th edition unless older edition indicated)<br>See relevant information in Form PCT/ISA/237 |  |  |                  |
| Applicant<br>CPI CORP.   |  |  |                  |

|  |                                     |   |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
|--|-------------------------------------|---|---------------------|--------------------------|------------|----------|--------------------------|-------------|--|--------------------------|------------|----------------------------|-------------------------------------|-----------|---|--------------------------|------------|-------------------------|--------------------------|-------------|--|--------------------------|--------------|---|
| <p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>  |                                     |   |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <p>3. This report contains indications relating to the following items:</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> <p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).</p> | <input checked="" type="checkbox"/> | Box No. I   | Basis of the report | <input type="checkbox"/> | Box No. II | Priority | <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | <input type="checkbox"/> | Box No. IV | Lack of unity of invention | <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | <input type="checkbox"/> | Box No. VI | Certain documents cited | <input type="checkbox"/> | Box No. VII | Certain defects in the international application | <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |
| <input checked="" type="checkbox"/>  | Box No. I                           | Basis of the report   |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>   | Box No. II                          | Priority  |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>   | Box No. III                         | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>   | Box No. IV                          | Lack of unity of invention  |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input checked="" type="checkbox"/>  | Box No. V                           | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>   | Box No. VI                          | Certain documents cited   |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>   | Box No. VII                         | Certain defects in the international application  |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |
| <input type="checkbox"/>   | Box No. VIII                        | Certain observations on the international application   |                     |                          |            |          |                          |             |  |                          |            |                            |                                     |           |   |                          |            |                         |                          |             |  |                          |              |   |

|   |  |
|---|--|
|   | Date of issuance of this report<br>16 December 2008 (16.12.2008) |
| The International Bureau of WIPO<br>34, chemin des Colombettes<br>1211 Geneva 20, Switzerland | Authorized officer<br><br><b>Athina Nickitas-Etienne</b>         |
| Facsimile No. +41 22 338 82 70  | e-mail: pt04.pct@wipo.int  |

## PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

CLYDE L. SMITH  
THOMPSON COBURN LLP  
ONE US BANK PLAZA  
ST. LOUIS, MISSOURI 63101

**PCT**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing  
(day/month/year)

**28 JAN 2008**

Applicant's or agent's file reference

40236-69368

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

PCT/US07/71238

International filing date (day/month/year)

14 June 2007

Priority date (day/month/year)

16 June 2006

International Patent Classification (IPC) or both national classification and IPC

IPC(8) - ~~G06F~~ 17/30(2006.01)

USPC - 705/27

Applicant **CPI CORP.**

## 1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

## 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

## 3. For further details, see notes to Form PCT/ISA/220.

|   |  |  |
|---|--|--|
| Name and mailing address of the ISA/US<br>Mail Stop PCT, Attn: ISA/US<br>Commissioner for Patents<br>P.O. Box 1450, Alexandria, Virginia 22313-1450<br>Facsimile No. 571-273-3201 | Date of completion of this opinion<br><br>12 December 2007 | Authorized officer:<br><br>Blaine Copenheaver<br><br>PCT Helpdesk: 571-272-4300<br>PCT OSP: 571-272-7774 |
|---|--|--|

Form PCT/ISA/237 (cover sheet) (April 2007)

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US07/71238

## Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:
  - the international application in the language in which it was filed.
  - a translation of the international application into \_\_\_\_\_ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2.  This opinion has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, this opinion has been established on the basis of:
  - a. type of material
    - a sequence listing
    - table(s) related to the sequence listing
  - b. format of material
    - on paper
    - in electronic form
  - c. time of filing/furnishing
    - contained in the international application as filed
    - filed together with the international application in electronic form
    - furnished subsequently to this Authority for the purposes of search
4.  In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US07/1238

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**I. Statement**

|                               |        |             |     |
|-------------------------------|--------|-------------|-----|
| Novelty (N)                   | Claims | <u>NONE</u> | YES |
|                               | Claims | <u>1-21</u> | NO  |
| Inventive step (IS)           | Claims | <u>NONE</u> | YES |
|                               | Claims | <u>1-21</u> | NO  |
| Industrial applicability (IA) | Claims | <u>1-21</u> | YES |
|                               | Claims | <u>NONE</u> | NO  |

**2. Citations and explanations:**

Claims 1-21 lack novelty under PCT Article 33(2) as being obvious over Haeberli (US 7,016,869 B1).

Regarding claim 1, Haeberli discloses a method comprising: participating in an oral communication session with a person, the oral communication session being a remote communication session occurring through an oral communication system, the person being able to view a visual display device during the oral communication session (fig. 8b; col. 3, lines 56-64; col. 10, lines 23-37); making a first visual media file (selected images or received images, col. 14, lines 12-14) accessible for the person to view on the visual display device via a data network during the oral communication session (fig. 8a; col. 9, lines 8-25; col. 10, lines 23-37; col. 14, lines 12-14); making a second visual media file (preview images of image-based product, col. 14, lines 12-36) accessible for the person to view on the visual display device via the data network during the oral communication session, the first visual media file being inaccessible to the person for display on the visual display device while the second visual media file is being made accessible for the person to view on the visual display device (figs. 8a, 8b; col. 10, lines 23-39; col. 14, lines 12-36); and selling visual media to the person, the visual media being dependent upon at least one of the first and second visual media files, the selling comprising orally discussing payment options with the person during the oral communication session (figs. 8a, 8b; col. 10, lines 23-37; col. 14, lines 12-36).

Regarding claim 9, Haeberli discloses a method comprising: obtaining a plurality of photographic images of at least one subject (fig. 8a); participating in an oral communication session with a person, the oral communication session being a remote communication session occurring through an oral communication system, the person being able to view a visual display device during the oral communication session (fig. 8b; col. 3, lines 56-64; col. 10, lines 23-37); making a first image (fig. 8a) accessible for the person to view on the visual display device via a data network during the oral communication session, the first image being dependent upon a first digital file (selected images or received images, col. 14, lines 12-14) that has been at least partially obtained from at least one of the photographic images (figs. 8a, 8b; col. 9, lines 8-25; col. 10, lines 23-37; col. 14, lines 12-36); creating a second digital file (preview images of image-based product, col. 14, lines 12-36) using the first digital file in response to oral communications provided by the person during the oral communication session (figs. 8a, 8b; col. 14, lines 12-36); and making a second image (fig. 8b) accessible for the person to view on the visual display device via the data network during the oral communication session, the second image being dependent upon the second digital file (fig. 8b; col. 10, lines 23-37; col. 14, lines 12-36).

Regarding claim 15, Haeberli discloses a method comprising: obtaining a plurality of photographic images of at least one subject (fig. 8a); participating in an oral communication session with a person, the oral communication session being a remote communication session occurring through an oral communication system, the first person being able to view a visual display device during the oral communication session (fig. 8b; col. 3, lines 56-64; col. 10, lines 23-37); making an image (fig. 8a) accessible for the person to view on the visual display device via a data network (col. 9, lines 8-25) during the oral communication session, the image being dependent upon a digital file (selected images or received images, col. 14, lines 12-14) that has been at least partially obtained from at least one of the photographic images (figs. 8a, 8b; col. 9, lines 8-25; col. 10, lines 23-37; col. 14, lines 12-36); and selling an item to the person, the item being one of the digital file and a photographic print generated from the digital file (abstract; col. 10, lines 23-37).

Regarding claim 21, Haeberli discloses a method comprising: obtaining a plurality of photographic images of at least a first person (a person in picture) (fig. 8a); participating in an oral communication session with at least one of the first person and a second person (a client), the second person being related to the first person, the oral communication session being a remote communication session occurring through an oral communication system, the one of the first and second persons being able to view a visual display device during the oral communication session (fig. 8b; col. 3, lines 56-64; col. 10, lines 23-37); presenting a plurality of digital images on the visual display device via a data network during the oral communication session, the presenting comprising remotely altering what is displayed on the visual display device in response to oral communications made by the one of the first and second persons (figs. 8a, 8b; col. 9, lines 8-25; col. 10, lines 23-37; col. 14, lines 12-36); selling an item to the one of the first and second persons, the item being one of a digital image file that is dependent upon at least one of the photographic images and a photographic print that is dependent upon at least one of the photographic images (col. 10, lines 23-37; col. 14, lines 12-36).

(Cont. in Supplemental Box)

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US07/71238

**Supplemental Box**

**In case the space in any of the preceding boxes is not sufficient.**

Continuation of:

Box No. V

2. Citations and explanations:

Regarding claim 2, depending from claim 1, Haerberli discloses the oral communication system is separate from the data network (col. 9, lines 8-25; col. 10, lines 23-37).

Regarding claim 3, depending from claim 1, Haerberli discloses the visual media is a photographic print (col. 4, lines 55-56).

Regarding claim 4, depending from claim 3, Haerberli discloses the photographic print comprises a visual image of the person (figs. 8a, 8b; col. 14, lines 12-36).

Regarding claim 5, depending from claim 1, Haerberli discloses the second visual media file is dependent upon the first visual media file (figs. 8a, 8b; col. 14, lines 12-36).

Regarding claim 6, depending from claim 1, Haerberli discloses the second visual media file is created during the oral communication session (the since order includes information specifying a type of images-based product via telephone, it is considered that images-based product appears to be created during oral communication session for better customer services) (col. 10, lines 23-37; col. 14, lines 12-36).

Regarding claim 7, depending from claim 6, Haerberli discloses the second visual media file is dependent upon the first visual media file (figs. 8a, 8b; col. 14, lines 12-36).

Regarding claim 8, depending from claim 1, Haerberli discloses the step of selling visual media to the person further comprises orally obtaining payment information from the person during the oral communication session (col. 10, lines 23-37).

Regarding claim 10, depending from claim 9, Haerberli discloses selling an item to the person, the item being one of the first digital file, the second digital file, a photographic print generated from the first digital file, and a photographic print generated from the second digital file (abstract).

Regarding claim 11, depending from claim 10, Haerberli discloses the selling comprises orally obtaining payment information from the person during the oral communication session (col. 10, lines 23-37).

Regarding claim 12, depending from claim 9, Haerberli discloses each of the photographic images comprises a visual image of the person (fig 8b).

Regarding claim 13, depending from claim 9, Haerberli discloses the oral communication system is separate from the data network (col. 9, lines 8-25; col. 10, lines 23-37).

Regarding claim 14, depending from claim 9, Haerberli discloses the step of making the second image accessible to view on the visual display device occurs in a manner such that the first image is inaccessible to the person for display on the visual display device while the second image is being made accessible for the person to view on the visual display device (figs. 8a, 8b; col. 10, lines 23-39; col. 14, lines 12-36);

Regarding claim 16, depending from claim 15, Haerberli discloses the selling comprises orally obtaining payment information from the person during the oral communication session (col. 10, lines 23-37).

Regarding claim 17, depending from claim 15, Haerberli discloses the image constitutes a first image (fig. 8a) and the data file constitutes a first data file (selected images or received images, col. 14, lines 12-14), the method further comprises a step of making a second image (fig. 8b) accessible to view on the visual display device via the data network during the oral communication session, the second image is dependent upon a second digital file (preview images of image-based product, col. 14, lines 12-36) that has been at least partially obtained from at least one of the photographic images, and the step of making the second image accessible to view on the visual display device occurs in a manner such that the first image is inaccessible to the person for display on the visual display device while the second image is being made accessible for the person to view on the visual display device (figs 8a, 8b; col. 10, lines 23-37; col. 14, lines 12-36).

Regarding claim 18, depending from claim 17, Haerberli discloses the second data file is dependent upon the first data file (figs 8a, 8b; col. 14, lines 12-36).

Regarding claim 19, depending from claim 15, Haerberli discloses the subject is the person (fig. 8b).

Regarding claim 20, depending from claim 15, Haerberli discloses the oral communication system is separate from the data network (col. 9, lines 8-25; col. 10, lines 23-37).

Claims 1-21 meet the criteria set out in PCT Article 33(2)-(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.