

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

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| Applicant's or agent's file reference 402990-PCT | FOR FURTHER ACTION | | See item 4 below |
| International application No. PCT/US2018/036171 | International filing date (<i>day/month/year</i>) 06 June 2018 (06.06.2018) | Priority date (<i>day/month/year</i>) 31 August 2017 (31.08.2017) | |
| International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237 | | | |
| Applicant MICROSOFT TECHNOLOGY LICENSING, LLC | | | |

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|--|-------------------------------------|---|---------------------|--------------------------|------------|----------|--------------------------|-------------|--|--------------------------|------------|----------------------------|-------------------------------------|-----------|---|--------------------------|------------|-------------------------|-------------------------------------|-------------|--|--------------------------|--------------|---|
| <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 7 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> <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 checked="" 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 checked="" 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 checked="" type="checkbox"/> | Box No. VII | Certain defects in the international application | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application | | | | | | | | | | | | | | | | | | | | | | |

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| | Date of issuance of this report 03 March 2020 (03.03.2020) |
| The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland | Authorized officer Simin Baharlou |
| Facsimile No. +41 22 338 82 70 | e-mail: pct.team9@wipo.int |

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)**

To:

see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2018/036171

International filing date (day/month/year)
06.06.2018

Priority date (day/month/year)
31.08.2017

International Patent Classification (IPC) or both national classification and IPC
INV. H04L29/08

Applicant
MICROSOFT TECHNOLOGY LICENSING, LLC

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 and 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 usually 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.

Name and mailing address of the ISA:



European Patent Office
P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040
Fax: +31 70 340 - 3016

Date of completion of this opinion

see form
PCT/ISA/210

Authorized Officer

Aura Marcos, F

Telephone No. +31 70 340-0



Box No. I Basis of the 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 sequence listing:
 - a. forming part of the international application as filed:
 - in the form of an Annex C/ST.25 text file.
 - on paper or in the form of an image file.
 - b. furnished together with the international application under PCT Rule 13ter.1(a) for the purposes of international search only in the form of an Annex C/ST.25 text file.
 - c. furnished subsequent to the international filing date for the purposes of international search only:
 - in the form of an Annex C/ST.25 text file (Rule 13ter.1(a)).
 - on paper or in the form of an image file (Rule 13ter.1(b) and Administrative Instructions, Section 713).
4. In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that forming part of the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

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

1. Statement

| | | |
|-------------------------------|-------------|-------------------------|
| Novelty (N) | Yes: Claims | <u>5, 7, 12, 14</u> |
| | No: Claims | <u>1-4, 6, 8-11, 13</u> |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | <u>1-14</u> |
| Industrial applicability (IA) | Yes: Claims | <u>1-14</u> |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 Reference is made to the following documents:

- D1 WO 2005/089063 A2 (IPOINT MEDIA LTD [IL]; BERLER TAMIR [IL]) 29 September 2005 (2005-09-29)
- D2 US 2012/124219 A1 (ZHU WENBO [US] ET AL) 17 May 2012 (2012-05-17)
- D3 US 2015/188882 A1 (WANG XIAOBO [US] ET AL) 2 July 2015 (2015-07-02)
- D4 US 8 601 144 B1 (RYNER GERALD T [US]) 3 December 2013 (2013-12-03)

2 The present Application does not meet the criteria of Article 33(1) PCT, because the subject matter of claim 1 is not new in the sense of Article 33(2) PCT.

2.1 D1 discloses in terms of claim 1 (the references in parentheses applying to this document) a computing device (fig.3: '70'), comprising:

a communications subsystem (inherent to the computing nature of the disclosed end device 70);

a logic machine (inherent to the computing nature of the disclosed end device 70); and

a storage machine holding instructions executable by the logic machine (inherent to the computing nature of the disclosed end device 70) to:

via the communications subsystem, receive a first request from a first computing device (fig.3: '62') via a request and response protocol, the first request including a first-device-provided portion of a data stream ("Typically, in accordance with a preferred embodiment of the invention, end-point 62 sends data using a "post" HTTP transaction to HTTP tunneling server 70.");

send ("Typically, in accordance with a preferred embodiment of the invention, end-point 62 sends data using a "post" HTTP transaction to HTTP tunneling server 70. End-point 64 uses a "get" transaction to obtain this data from the HTTP tunneling server.") the first-device-provided portion of the data stream to a second computing device (fig.3: '64');

receive ("Full duplex communication is obtained by establishing a second HTTP connection 68, in which end-point 64 uses also a "post" to send data to HTTP tunneling server") a second-device-provided portion of the data stream from the second computing device (fig.3: '64');

receive a second request from the first computing device (fig.3: '62') via the request and response protocol, the second request soliciting the second-device-provided portion of the data stream ("end-point 62 obtains this data using "get" transaction"); and

send a response to the second request to the first computing device (fig. 3: '62') via the request and response protocol, the response including the second-device-provided portion of the data stream ("end-point 62 obtains this data using "get" transaction").

- 2.2 Therefore, the subject matter of claim 1 is not novel in the sense of Article 33 (2) PCT.
- 3 The attention is additionally drawn to document D2 (see specifically §7, §27, §29), which is also prejudicial for the novelty of claim 1.
- 4 The same reasoning applies *mutatis mutandis* to independent system claim 9, which is therefore also not novel (Article 33 (2) PCT).

- 5 The additional features of dependent claims 2-8, 10-14 are also not novel (Article 33 (2) PCT) - claims 2-4, 6, 8, 10, 11, 13 -, or do not involve an inventive step (Article 33 (3) PCT) - claims 5, 7, 12, 14 - as can be seen from documents D1-D4, more specifically the corresponding passages referred in the International Search Report.

Re Item VII

Certain defects in the international application

- 1 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2 (b) PCT).
- 2 The independent claims are not in the two-part form in accordance with Rule 6.3 (b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3 (b) (i) PCT) and with the remaining features being included in the characterizing part (Rule 6.3 (b) (ii) PCT).
- 3 The relevant background art disclosed in the document D1 is not mentioned in the description (Rule 5.1 (a) (ii) PCT).