

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**GLOBAL EQUITY MANAGEMENT)
(SA) PTY. LTD.,)
Plaintiff,)**

Civil Action No. 2:15-CV-01702

v.)

**ALIBABA.COM, INC., ALIBABA.COM.)
SINGAPORE E-COMMERCE)
PRIVATE LTD., AND ALIBABA)
GROUP HOLDING, LTD.,)
Defendants.)**

JURY TRIAL DEMANDED

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Global Equity Management (SA) Pt. Ltd. (“GEMSA”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement by Alibaba.com, Inc., Alibaba.com Singapore E-commerce Private Ltd., and Alibaba Group Holding, Ltd. (collectively referred to as “Alibaba”), alleging as follows:

THE PARTIES

1. Plaintiff GEMSA is a Texas Limited Liability Company, with its principal place of business located 458 Morphett Road, Warradale, South Australia 5046.
2. Upon information and belief, Alibaba.com, Inc. is a corporation organized and existing under the laws of Delaware, with a place of business at 3945 Freedom Cir. #600, Santa Clara, CA 95054, and a registered agent for service of process at National Registered Agents, Inc., 818 W. Seventh St., Los Angeles, CA 90017. Upon information and belief, Alibaba sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

3. Upon information and belief, Alibaba.com Singapore E-commerce Private Ltd. is a company organized and existing under the laws of Singapore, with a registered address at 10 Collyer Quay # 10-01, Ocean Financial Centre, Singapore 049315 and, upon information and belief, can be served at that address by mail, agent, or letters rogatory. Upon information and belief, Alibaba.com Singapore E-commerce Private Ltd. sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

4. Upon information and belief, Alibaba Group Holding Ltd. is a holding company organized and existing under the laws of the Cayman Islands, with a place of business at 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong and a registered agent for service of process at Corporation Service Company, 1180 Avenue of the Americas, Suite 210, New York, New York 10036. Upon information and belief, Alibaba Group Holding Ltd. sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 et. seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over each Defendant Alibaba because: Alibaba is present within or has minimum contacts within the State of Texas and this judicial district; Defendants have purposefully availed themselves of the privileges of conducting business in the

State of Texas and in this judicial district; Defendants each regularly conduct business within the State of Texas and within this judicial district; and Plaintiff's cause of action arises directly from each Defendants' business contacts and other activities in the State of Texas and in this judicial district.

7. Upon information and belief, Defendants each conduct substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas.

Background of the Invention

8. GEMSA's predecessor, Flash Vos, Inc., moved the computer industry a quantum leap forwarded in the late 90's when it invented Systems Virtualization and was awarded the patents US6690400 ('400), US7356677 ('677) and US6401183 ('183).

United States Patent
 (12) Patent No.: US 6,690,400 B1
 (45) Date of Patent: Feb. 10, 2004

ABSTRACT
 This invention is a Graphic User Interface (GUI) that enables a user to monitor the system and to define secondary storage physical devices through the graphical distribution of software. The GUI allows the user to assign each cabinet a name, and to define the cabinet by its software, which may include single or multiple operating systems, programs and/or data files. The user is also allowed to define the secondary storage physical devices. The GUI also features graphically callable Internet hypertexts for communication and resource management. Also, this invention uses a combination of Flash VOS VIOK and ACT to partition "Cold Storage" or "Control" technology, which remove one or more OS independently from all of part operation and operation in a non-interactive OS in all or part of network. Illustrations are shown for multiple operating systems through the defined access to Shared Devices or Shared Partitions. The GUI can be used as a variety of computer systems, including multiple operating systems and super operating system based computers.

Claims, 17 Drawing Sheets

United States Patent
 (12) Patent No.: US 7,356,677 B1
 (45) Date of Patent: Apr. 8, 2008

ABSTRACT
 A method and apparatus is provided that allows rapid switching between multiple operating systems environments and/or applications through the use of a Super Operating System operating between the computer system's firmware level and a plurality of hostable operating systems, and applications. Software data, such as hardware context, configuration and physical partitions in virtual contexts, and partitions of operating partitions can be assigned to a virtual context or virtual computer system. A fast partition is assigned to multiple contexts. In operating under the virtual computer system, the Super Operating System uses the context and resource functions of the guest management virtual computer system, while activating and operating the alternate virtual computer system on the same computer.

Claims, 12 Drawing Sheets

United States Patent
 (12) Patent No.: US 6,401,183 B1
 (45) Date of Patent: Jun. 4, 2002

ABSTRACT
 A Storage Manager that dynamically multiplexes and partitions the secondary storage of a computer device without re-writing or re-creating the secondary storage after each re-configuration. The Storage Manager is implemented as executable code between the device's level and the main site operating system and application program level of a computer device. Means are provided to transfer control of the computer device to the Storage Manager prior to the user installing information in contained for each Partition of the secondary storage, so that one Cabinet is removed, containing a list of Partitions. Each Cabinet can have a separate list of Partitions, and one Partition can be included in more than one Cabinet. Upon completion of the host's operation, the Partitions in the list of Partitions within that Cabinet replace the Partitions of the secondary storage device. If the secondary storage device is hostable, then the Partitions within that Cabinet marked as hostable is transferred and included in the next storage. The content of the Partitions and Cabinet may be modified by a user through a graphical user interface.

Claims, 7 Drawing Sheets

9. Technology Experts recognized the Virtualization innovations as key technology inventions. Before the SOS, computers were only able to use a single operating system and virtualization of computers based on storage was not possible. The technology has been cited numerous times by the patent office as relevant prior art for other later patent applications.

US7996887	31 Oct 2008	9 Aug 2011	International Business Machines Corporation	Product for providing a scalable trusted platform module in a hypervisor environment
US8010513	28 May 2010	30 Aug 2011	Brocade Communications Systems, Inc.	Use of server instances and processing elements to define a server
US8091042 *	15 Nov 2001	3 Jan 2012	Siebel Systems, Inc.	Apparatus and method for displaying selectable icons in a toolbar for a user interface
US8150972	10 Feb 2011	3 Apr 2012	Adaptive Computing Enterprises, Inc.	System and method of providing reservation masks within a compute environment
US8176094	1 Jun 2009	8 May 2012	Novell, Inc.	System and method for efficiently building virtual appliances in a hosted environment
US8209288	1 Jun 2009	26 Jun 2012	Novell, Inc.	System and method for inspecting a virtual appliance runtime environment
US8209495	28 Mar 2011	26 Jun 2012	Hitachi, Ltd.	Storage management method and storage management system
US8214842 *	27 Feb 2009	3 Jul 2012	International Business Machines Corporation	Visualization-centric performance-based volume allocation
US8321871	17 Jun 2005	27 Nov 2012	Adaptive Computing Enterprises, Inc.	System and method of using transaction IDS for managing reservations of compute resources within a compute environment
US8386721	21 Nov 2008	26 Feb 2013	Hitachi, Ltd.	Storage having logical partitioning capability and systems which include the storage
US8412909 *	7 Apr 2010	2 Apr 2013	Samsung Electronics Co., Ltd.	Defining and changing spare space and user space in a storage apparatus
US8413155	11 Mar 2005	2 Apr 2013	Adaptive Computing Enterprises, Inc.	System and method for a self-optimizing reservation in time of compute resources
US8418186	27 Jun 2011	9 Apr 2013	Adaptive Computing Enterprises, Inc.	System and method of co-allocating a reservation spanning different compute resources types
US8423884	8 Dec 2011	16 Apr 2013	Institute For Information Industry	System, method and computer readable storage medium for storing the method for operating graphic user interface
US8499276 *	28 Dec 2006	30 Jul 2013	Ca, Inc.	Multi-platform graphical user interface
US8516217 *	27 Mar 2009	20 Aug 2013	International Business Machines Corporation	Managing a logically partitioned computing system through a virtual file system
US8543998	11 Feb 2009	24 Sep 2013	Oracle International Corporation	System and method for building virtual appliances using a repository metadata server and a dependency resolution service
US8544016	1 Jun 2009	24 Sep 2013	Oracle International Corporation	Rebuilding a first and second image based on software components having earlier versions for one or more appliances and performing a first and second integration test for each respective image in a runtime environment
			Adaptive	

REFERENCED BY

Citing Patent	Filing date	Publication date	Applicant	Title
US6971002 *	9 Aug 2001	29 Nov 2005	International Business Machines Corporation	Method, system, and product for booting a partition using one of multiple, different firmware images without rebooting other partitions
US7062629 *	15 Feb 2005	13 Jun 2006	Hitachi, Ltd.	Apparatus and method for partitioning and managing subsystem logics
US7065627 *	25 Mar 2002	20 Jun 2006	International Business Machines Corporation	Method and system for providing an event driven image for a boot record
US7069408 *	9 Dec 2003	27 Jun 2006	Hitachi, Ltd.	Apparatus and method for partitioning and managing subsystem logics
US7103847 *	18 Jul 2002	5 Sep 2006	International Business Machines Corporation	Method and system for monitoring the use of a resource in a processing system
US7127585	23 Jun 2004	24 Oct 2006	Hitachi, Ltd.	Storage having logical partitioning capability and systems which include the storage
US7146569 *	10 Oct 2002	5 Dec 2006	International Business Machines Corporation	Method, apparatus, and program for visual representation of an address space
US7181577	19 Feb 2004	20 Feb 2007	Hitachi, Ltd.	Storage having logical partitioning capability and systems which include the storage
US7185142	20 May 2004	27 Feb 2007	Hitachi, Ltd.	Storage management method and storage management system
US7287129	17 May 2006	23 Oct 2007	Hitachi, Ltd.	Storage management method and storage management system
US7317175	24 Jun 2004	8 Jan 2008	Jere F. Irwin	User interface for configuring and controlling an array of heater elements
US7346585 *	28 Feb 2003	18 Mar 2008	Microsoft Corporation	Computer software and services license processing method and system
US7356770 *	8 Nov 2005	8 Apr 2008	Cluster Resources, Inc.	System and method of graphically managing and monitoring a compute environment
US7363455	15 Feb 2005	22 Apr 2008	Hitachi, Ltd.	Apparatus and method for partitioning and managing subsystem logics
US7415578	20 Mar 2007	19 Aug 2008	Hitachi, Ltd.	Storage management method and storage management system
US7478246 *	29 Jul 2004	13 Jan 2009	International Business Machines Corporation	Method for providing a scalable trusted platform module in a hypervisor environment
US7546426	21 Dec 2006	9 Jun 2009	Hitachi, Ltd.	Storage having a logical partitioning capability and systems which include the storage
US7590648 *	27 May 2005	15 Sep 2009	Brocade Communications Systems, Inc.	Template-based development of servers
US7624283	13 Feb 2006	24 Nov 2009	International Business Machines Corporation	Protocol for trusted platform module recovery through context checkpointing
US7917704	25 Jul 2008	29 Mar 2011	Hitachi, Ltd.	Storage management method and storage management system

10. Additionally, GEMSA has continued supporting these technologies advances and has helped the achievement of additional patents awarded in China which include:

- CN201010149051 [Firmware-based flash memory array management device and method independent of operating system](#)
- CN200810204083 [Operating system switching method based on expandable firmware interface](#)
- CN200810200121 [Virtual platform system based on firmware](#)
- CN200710132636 [Perspective communication method between super operating system and its intermedium](#)
- CN200910197256 [Cross-platform and cross-processor method based on extensible firmware interface and device](#)

11. These GEMSA creative achievements not only revolutionized the development of virtualization technology for support of multiple operating systems but also helped the development of internet advertising and information accessing from multiple data sources.

12. One of the key features of these innovations is the method of accessing additional relevant information from the GUI by simply clicking on the information links positioned on the right hand side of the GUI.

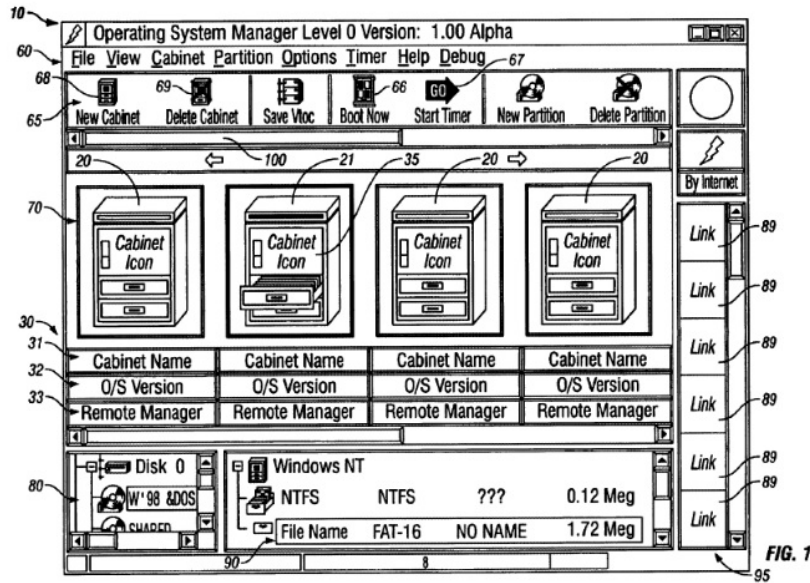


Fig.1 of GEMSA '400 GUI Patent

13. These GUI innovations include Menu Bars and Links are marked (65, 89, etc.) and shown in the Fig.1 of the '400 patent and one embodiment of this invention is further illustrated as figure 8 in '677 patent.

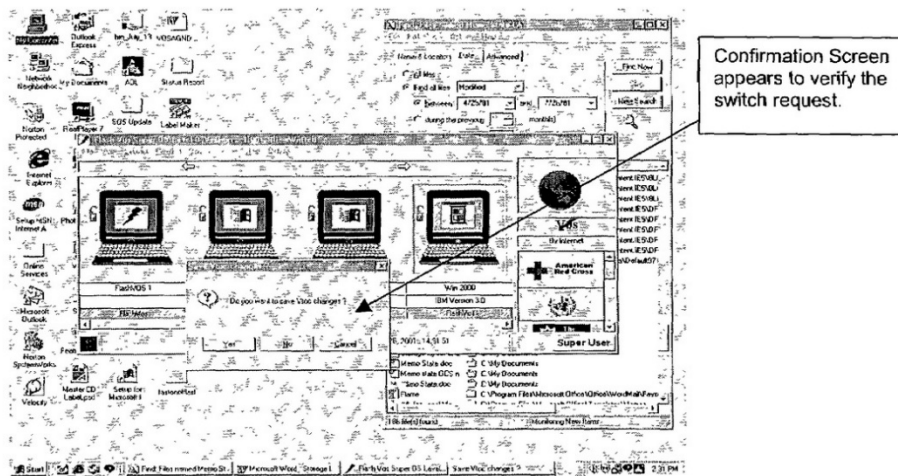
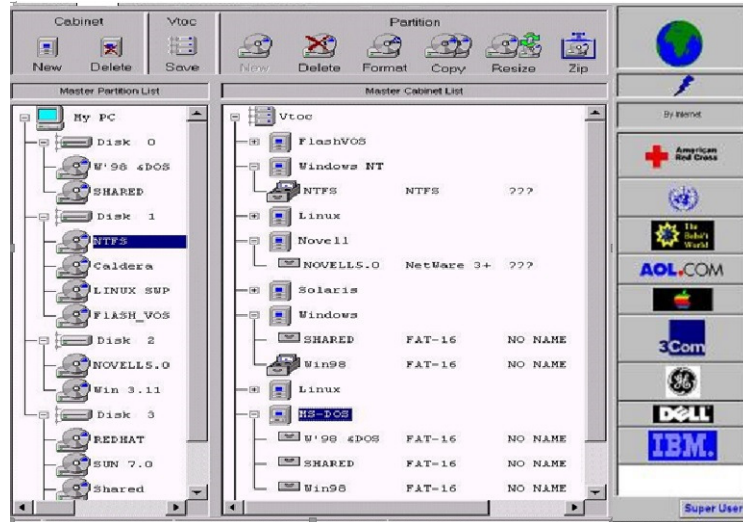


Figure 8 of GEMSA US 7356677 B1 Patent

14. Figure below is another instance of GEMSA GUI from copyrighted SOS User's Guide.



INFRINGEMENT

15. On February 10, 2004, United States Patent No. 6,690,400 ("the '400 patent") entitled "Graphic User Interface for Resources Management of Super Operating System Based Computers" was duly and legally issued by the United States Patent and Trademark Office. GEMSA owns the '400 patent by assignment.

16. Alibaba maintains, controls and/or operates a website with a graphical user interface ("GUT") at www.alibaba.com that infringes one or more claims of the '400 patent.

17. In doing so Alibaba infringes one or more claims of the '400 patent, literally or under the doctrine of equivalents. Alibaba directly infringes by making its GUI available to advertisers and consumers. Alibaba induces infringement by consumers and advertisers by encouraging them to use its GUI. Alibaba contributorily infringes by providing the GUI to consumers and advertisers.

18. On information and belief, Alibaba will continue to infringe the '400 patent unless and until it is enjoined by this Court.

19. Alibaba has caused and will continue to cause GEMSA irreparable injury and damage by infringing the '400 patent. GEMSA will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until Alibaba is enjoined from infringing the '400 patent.

PRAYER FOR RELIEF

WHEREFORE, GEMSA respectfully requests that this Court:

1. Enter judgment that Alibaba.com, Inc., Alibaba.com Singapore E-commerce Private Ltd., and Alibaba Group Holding, Ltd. have infringed the '400 patent;
2. Enter an order permanently enjoining Alibaba.com, Inc., Alibaba.com Singapore E-commerce Private Ltd., and Alibaba Group Holding, Ltd. and its officers, agents, employees, Attorneys, and all persons in active conceit or participation with any of them, from infringing the '400 patent;
3. Award GEMSA damages in an amount sufficient to compensate it for Alibaba.com, Inc., Alibaba.com Singapore E-commerce Private Ltd., and Alibaba Group Holding, Ltd.'s infringement of the '400 patent, together with prejudgment and post-judgment interest and costs under 35 U.S.C. § 284;
4. Award GEMSA an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
5. Declare this case to be "exceptional" under 35 U.S.C. § 285 and award GEMSA its attorneys' fees, expenses, and costs incurred in this action; and,
6. Award GEMSA such other and further relief as this Court deems just and proper.

JURY DEMAND

GEMSA hereby requests a trial by jury on issues so triable by right.

Respectfully submitted,

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