IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MYMAIL, LTD.,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 2:16-cv-00889
v.	§	
	§	Jury Trial Demanded
NASDAQ, INC.,	§	
	§	
Defendant.	§	

PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff MyMail, Ltd. files this Complaint against Defendant NASDAQ, Inc., and alleges as follows.

PARTIES

1.   Plaintiff MyMail, Ltd. ("MyMail") is a Texas Limited Partnership with an office and place of business at 5344 County Road 3901, Athens, TX 75752. MyMail was founded in 2003 as an intellectual property development and licensing company providing secure, internet-related services and efficient web page interaction to internet service providers, mobile device manufacturers, network carriers, and internet related toolbar developers. MyMail developed technology providing for the dynamic updating, changing, or modification of toolbar data from remote servers (the "MyMail Toolbar Technology"). Using the MyMail Toolbar Technology, toolbar providers can, for example, dynamically change elements, functions, and buttons on their toolbar(s) for specific targeted users based on use and individual searches. MyMail has obtained patents covering the MyMail Toolbar Technology and has successfully licensed the patented technology to toolbar providers.

2.   Upon information and belief, Defendant NASDAQ, Inc. ("NASDAQ") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at One Liberty Plaza, New York, New York, 10006. NASDAQ may be served with process through its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

3.   This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4.   NASDAQ is engaged in the business of publishing and distributing a browser plug-in called the NASDAQ Toolbar that seamlessly integrates with Microsoft Internet Explorer and Mozilla Firefox and appears in a user's browser to provide alerts about selected stocks and functions as a resource for content featured on NASDAQ.com from any web page location (the "NASDAQ Toolbar"). The NASDAQ Toolbar docks itself to a device's browser when installed and sits atop the browser at all times. NASDAQ publishes, promotes and distributes the NASDAQ Toolbar to users in the United States, including users within this District.

5.   Upon information and belief, NASDAQ is subject to this Court's specific personal jurisdiction because it does business in the State of Texas and has (a) designated an agent for service of process in the State of Texas; and (b) has committed acts of infringement in the State of Texas as alleged below. In particular, upon information and belief, NASDAQ is subject to the specific personal jurisdiction of this Court because MyMail's claims for patent infringement against NASDAQ arise from its acts of infringement in the State of Texas. These acts of infringement include providing the infringing NASDAQ Toolbar to users of the

NASDAQ Toolbar in the State of Texas and causing the browser on a user device to display the toolbar and perform the other functions of the asserted claims.   Therefore, this Court has personal jurisdiction over NASDAQ under the Texas long-arm statute, TEX. CIV. PRAC. & REM. CODE §17.042.

6.   Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, NASDAQ has engaged in acts of infringement in the State of Texas described here sufficient to subject it to personal jurisdiction in this district if the district were a separate State.

<h3 style="text-align:center">THE PATENTS-IN-SUIT</h3>

7.   On September 25, 2012 the United States Patent and Trademark Office issued United States Patent No. 8,275,863 (the "`863 Patent") entitled "Method of Modifying a Toolbar," a true copy of which is attached as Exhibit 1.

8.   On April 28, 2015, the United States Patent and Trademark Office issued United States Patent No. 9,021,070 (the "`070 Patent") entitled "Dynamically Modifying a Toolbar," a true copy of which is attached as Exhibit 2. The '070 Patent is a continuation of the '863 Patent. The '863 and '070 Patents are collectively referred to as the "Asserted Patents."

9.   MyMail is the owner of the '863 and '070 Patents, and has the exclusive right to sue for and recover all past, present and future damages for infringement of the Asserted Patents.

## ALLEGATIONS COMMON TO ALL CLAIMS

10.   The NASDAQ Toolbar software causes the toolbar to be displayed on a user Internet device (*i.e.*, a device that can communicate with other devices via the Internet) that includes toolbar buttons. For example, the NASDAQ Toolbar displayed on a user's Internet device includes the "GO", "Edit Ticker" and "Guru Analysis" buttons indicated in FIGURE 1.
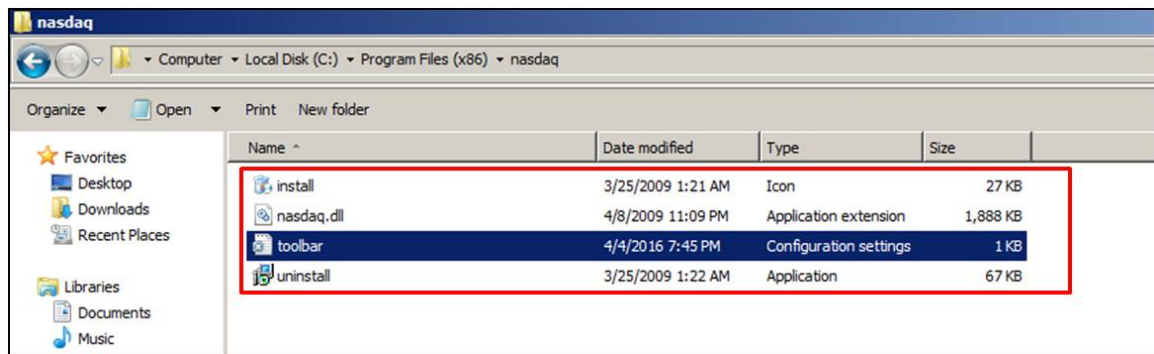
FIGURE 1
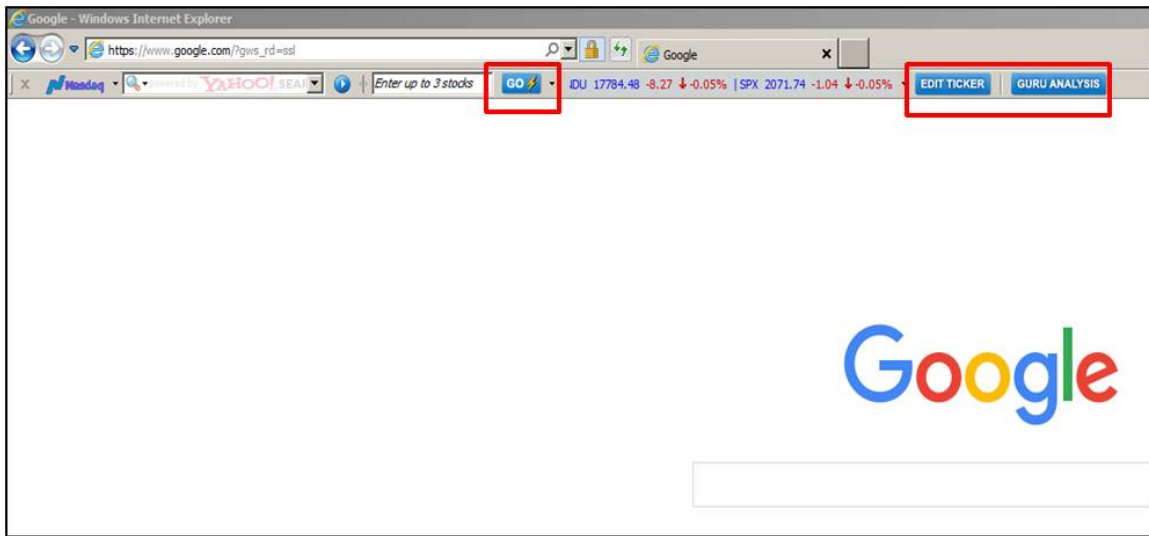
11.   The toolbar buttons on the NASDAQ Toolbar are defined by toolbar data stored in toolbar-defining databases. In particular, the toolbar buttons on the NASDAQ Toolbar are defined by toolbar data as indicated in FIGURE 2 below stored in the "AppData/Roaming/nasdaq" folder on the user Internet device:

FIGURE 2
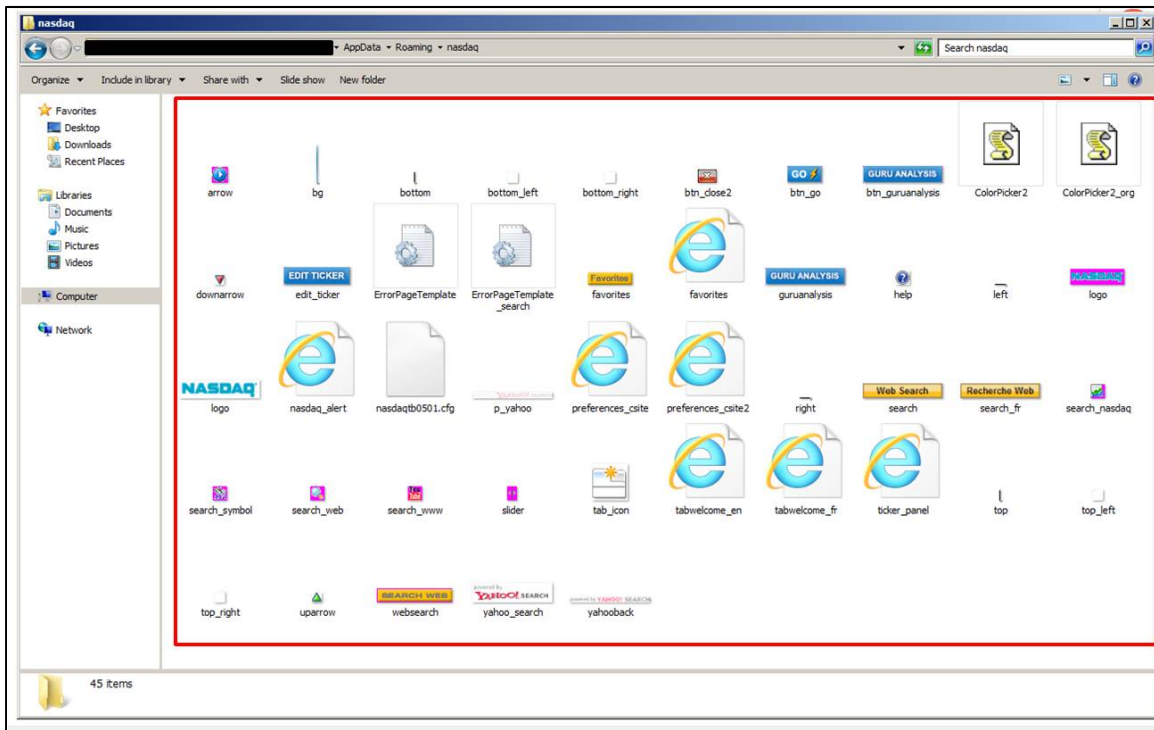
12.   The toolbar buttons are also defined by toolbar data as indicated below in FIGURE 3 stored in the "%Program Files (x86)/nasdaq" folder on the user Internet device.

FIGURE 3

13.   As shown below in FIGURES 4-6, the toolbar buttons are also defined by toolbar data stored in the Windows System Registry on the user Internet device:
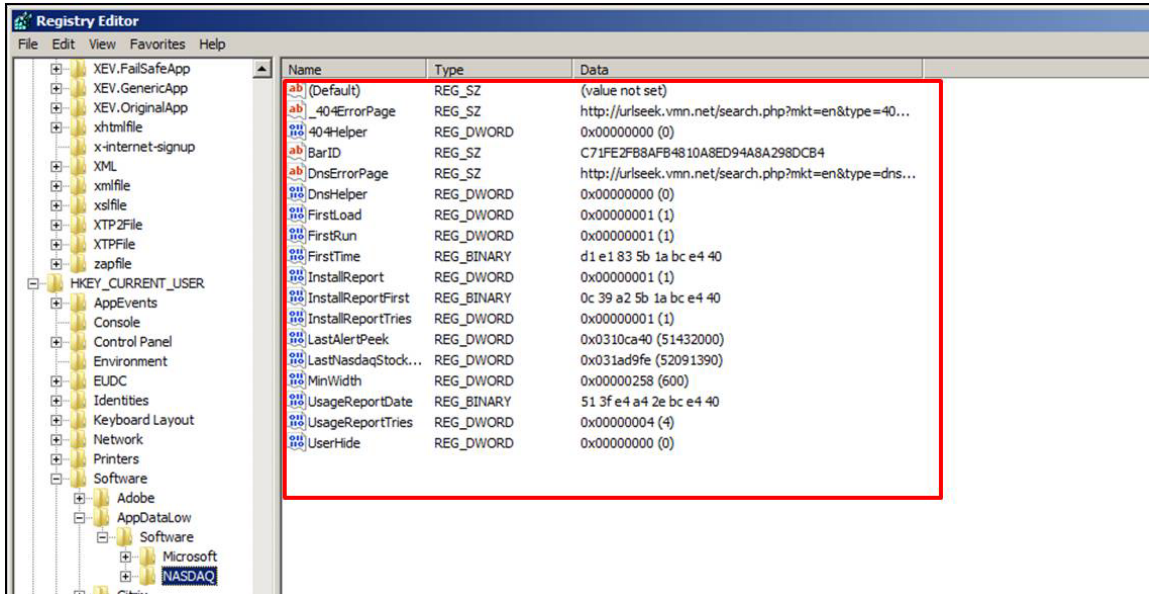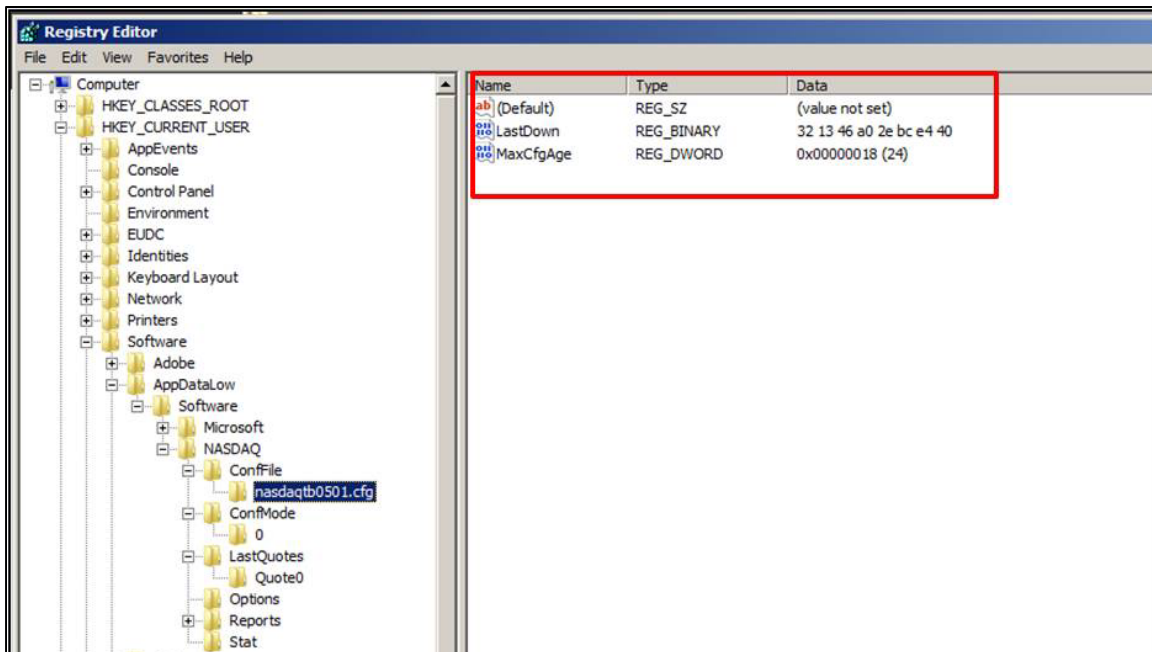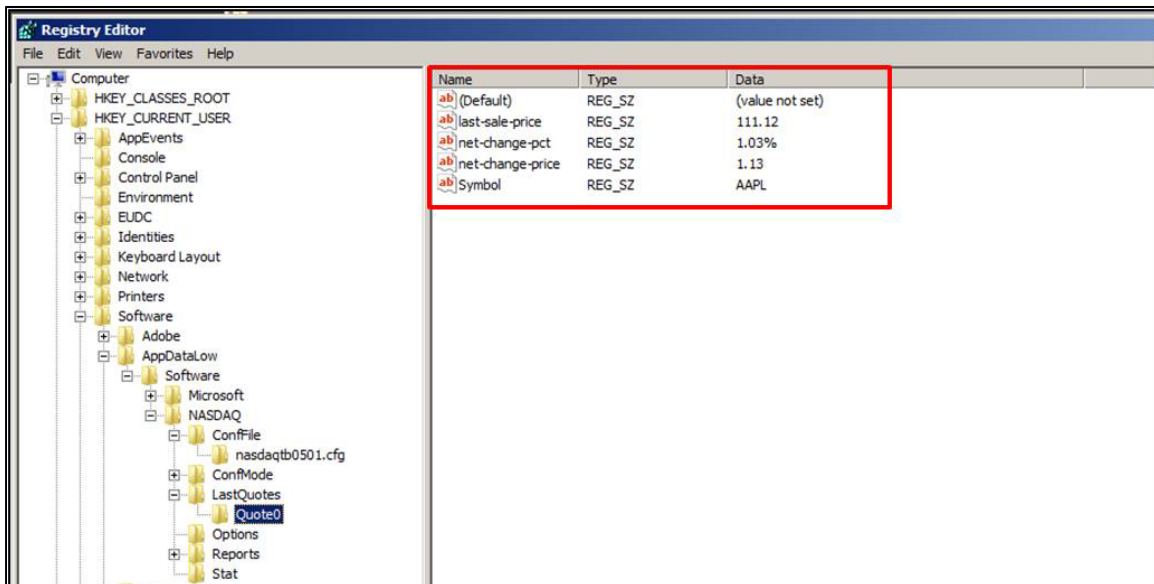
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FIGURE 4

FIGURE 5

FIGURE 6

14.   The "%AppData/Roaming/nasdaq" and "%Program Files (x86)/nasdaq" folders, and the Windows System Registry constitute toolbar defining databases of the user Internet device.

15.   The toolbar data of the NASDAQ Toolbar comprises a plurality of toolbar button attributes associated with the one or more toolbar buttons of the toolbar. For example, as shown below in FIGURE 7, the toolbar data in the "nasdaq0501.cfg" file in the "%AppData/Roaming/nasdaq" folder on the user Internet device includes a plurality of toolbar button attributes associated with the toolbar buttons of the toolbar:

FIGURE 7

```
<Data TYPE = "BUTTON">
"BUTTONMENU", "HOME", "", "Your Ultimate Source of Stock Information!",
"http://www.nasdaq.com", 1, 0, -1, "HOME", "", 0

"COMBOBOX", "COMBOSEARCH", "", 10, 1, 0, "", -1 , 200, "SEARCHACTION",
"", 1024, 8,
"<search_aide_query>http://www.google.com/complete/search?hl=en&xml=true&
qu=<<<YOURTERMSHERE>>></search_aide_query>"
"BUTTONSEARCH", "SEARCHACTION", "", "Search The Web", "", 1, 1, -1, "",
172, "", 0
"SPLITTER","SPLIT", "", "Press and move to resize the combobox", "", 1,
7, -1, "", " ", ""

"COMBOBOX", "COMBOQUOTES", "", 10, 1, 2, "Enter up to 3 stocks", -1 ,
120, "DEFAULT", "", 1024, -1, ""
"BUTTONSEARCH", "DEFAULT", "", "Get Quotes", "", 1, 2, -1, "QUOTES", -1,
"", 0

"BUTTONLINK", "LAST_NASDAQ_QUOTE", "", "Last searched quotes",
"http://nasdaq.com", 1, -1, -1, ""
"TICKER", "TICKERBOX", "", "Market indices", "", 1, -1, -1, "TICKERMENU",
320, 30, "", "", "CED3D6", "0000F0", "", 0, "", 0, -1, ""
"BUTTONLINK", "EDIT_TICKER", "", "Ticker options", "[[[MODAL_WINDOW,
AUTO_FIT, width=480,
height=660]]]http://www.nasdaq.com/services/toolbar_v2/preferences.html",
1, 9, -1, ""
"DIVIDER"
"BUTTONLINK", "GURU", "", "Guru Analysis",
"http://quotes.nasdaq.com/asp/MasterDataEntry.asp?page=guruanalysis", 1,
4, -1, ""
</Data>
```

16.   At least one of the toolbar button attributes (for example, in the "nasdaqtb0501.cfg" toolbar data) identifies a function to be performed by a specific toolbar button upon actuation of the tool bar button. For example, as shown in FIGURE 8 below, the "BUTTONLINK", "EDIT_TICKER" toolbar button attribute includes the following function to be performed when the "EDIT_TICKER" button is actuated:

FIGURE 8

```
"BUTTONLINK", "EDIT_TICKER", "", "Ticker options", "[[[MODAL_WINDOW,
AUTO_FIT, width=480,
height=660]]]http://www.nasdaq.com/services/toolbar_v2/preferences.html",
1, 9, -1, ""
```

17.   When the "EDIT_TICKER" button on the NASDAQ Toolbar is actuated, as shown below in FIGURE 9, a "NASDAQ Toolbar Preferences" window is displayed:

FIGURE 9
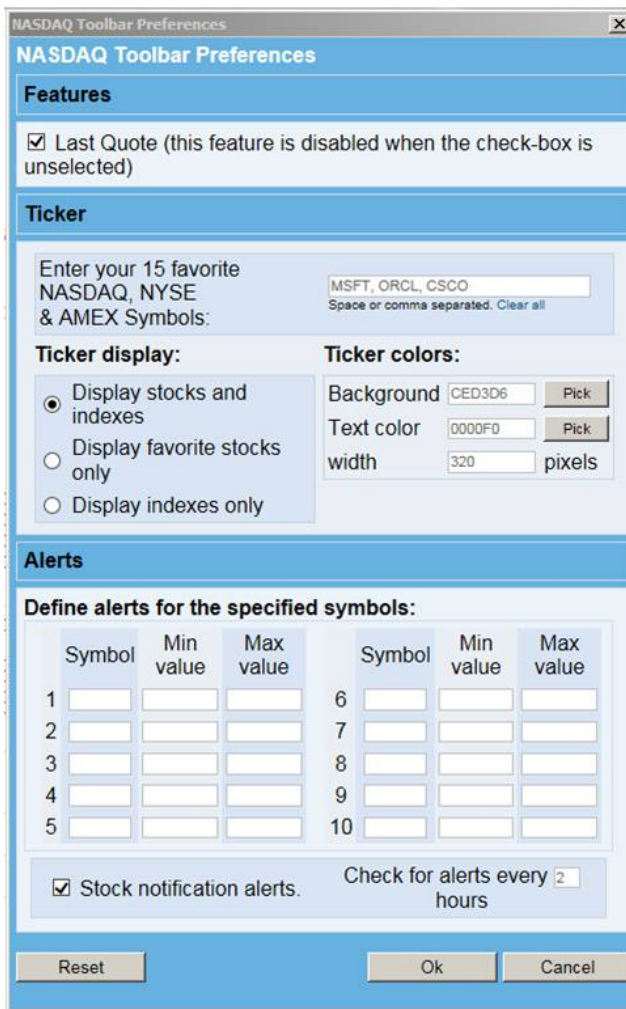
18.   The NASDAQ Toolbar performs a method for dynamically modifying a toolbar. For example, as shown below in FIGURE 10, the NASDAQ Toolbar communicates with server at IP Address 173.205.10.67, to dynamically modify the NASDAQ Toolbar by, for example, updating the latest quote value for Apple, Inc.
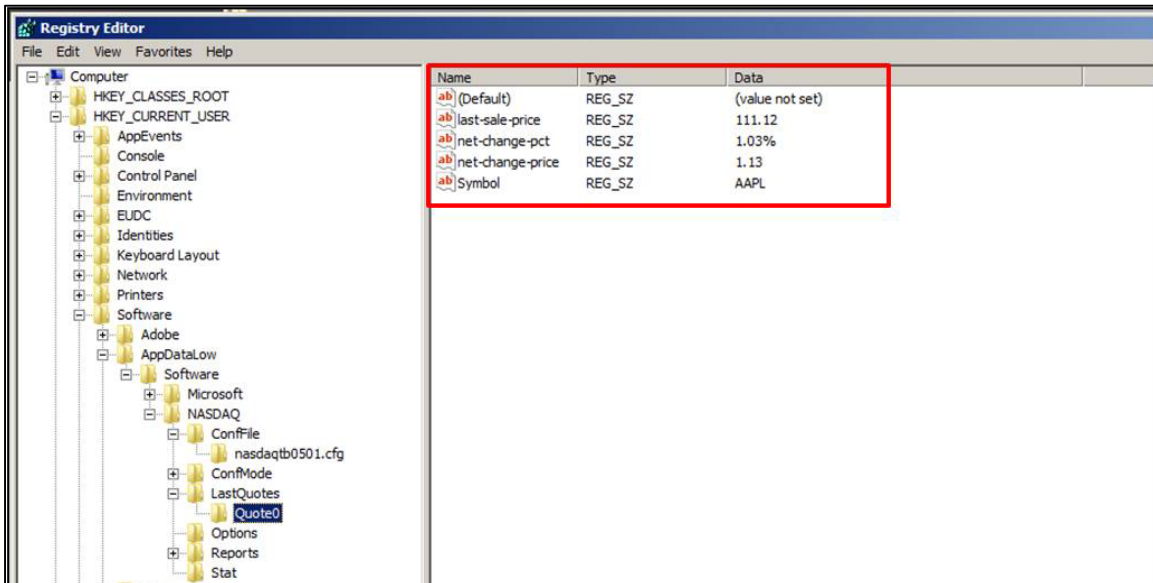
FIGURE 10

19.   The NASDAQ Toolbar initiates without user intervention or interaction communication of information associated with the one or more toolbar-defining databases from the user Internet device to a NASDAQ controlled server associated with a network address. For example, as shown below in FIGURES 11-12, the NASDAQ Toolbar causes the user Internet device at IP address 127.0.0.1 to send a "GET" request to a server associated with IP address 173.205.10.67 containing information associated with the toolbar data stored in the one or more toolbar defining databases of the user Internet device such as, for example, the stock symbol "AAPL," that is associated with the toolbar data stored in the Windows System Registry on the user Internet machine:

FIGURE 11

FIGURE 12

20.   The "GET" request is sent from the user internet device at IP address 127.0.0.1, without user intervention or interaction. For example, the NASDAQ Toolbar automatically

sends a "GET" request every 30 seconds approximately, without user intervention or interaction,

to obtain an updated stock quote, as reflected in FIGURE 13.
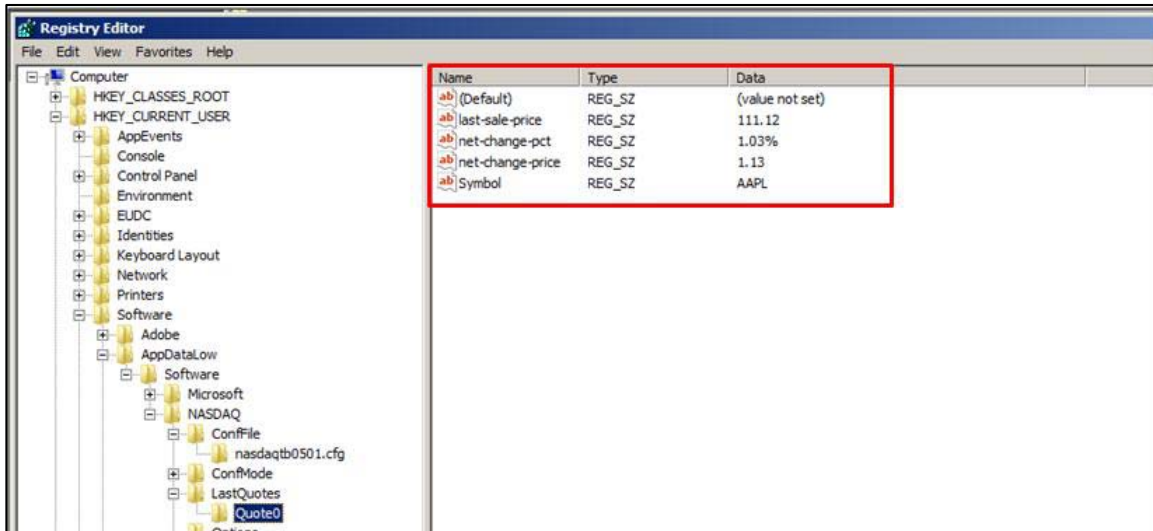
FIGURE 13

#	ClientBeginRequest	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
1	15:17:46.050		50.56.19.112	200	HTTPS	www.telerik.com	/UpdateCheck.aspx?isBeta=False	510
2	15:17:58.769	127.0.0.1	69.50.130.96	200	HTTP	nasdaq.application...	/postdata.php	43
3	15:18:00.082	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	226
4	15:18:00.222	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	223
5	15:18:00.332	127.0.0.1	173.205.10.81	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,084
6	15:18:30.082	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	226
7	15:18:30.191	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	223
8	15:18:30.316	127.0.0.1	173.205.10.81	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,084
9	15:19:00.082	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	226
10	15:19:00.192	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	223
11	15:19:00.301	127.0.0.1	173.205.10.81	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,084
12	15:19:30.083	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	226
13	15:19:30.192	127.0.0.1	173.205.10.67	301	HTTP	quotes.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	223
14	15:19:30.302	127.0.0.1	173.205.10.81	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,084

21.   The NASDAQ Toolbar further receives at a NASDAQ controlled server the

information associated with the toolbar-defining databases. For example, as shown below in

FIGURES 14-15, the server at IP address 173.205.10.67 receives a HTTP "GET" request from

the user Internet device that contains information associated with the toolbar data stored in the

one or more toolbar defining databases of the user Internet device such as, for example, the stock

symbol "AAPL," that is associated with the toolbar data stored in the Windows System Registry

on the user Internet machine:

FIGURE 14

#	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

FIGURE 15

22.   The NASDAQ controlled server receives from the user Internet device the information associated with the toolbar-defining databases because, as shown below in FIGURES 16-18, the user Internet device receives the updated toolbar data such as the latest quote data for Apple's stock, in the form of HTTP/XML messages from the server at IP address 173.205.10.67.   The server sends the updated toolbar data, for example, the "AAPL" stock symbol information, in response to the "GET" request sent from user internet device. MyMail expects that access to the NASDAQ controlled server-side source code will confirm that the server receives the information associated with the one or more toolbar-defining databases.

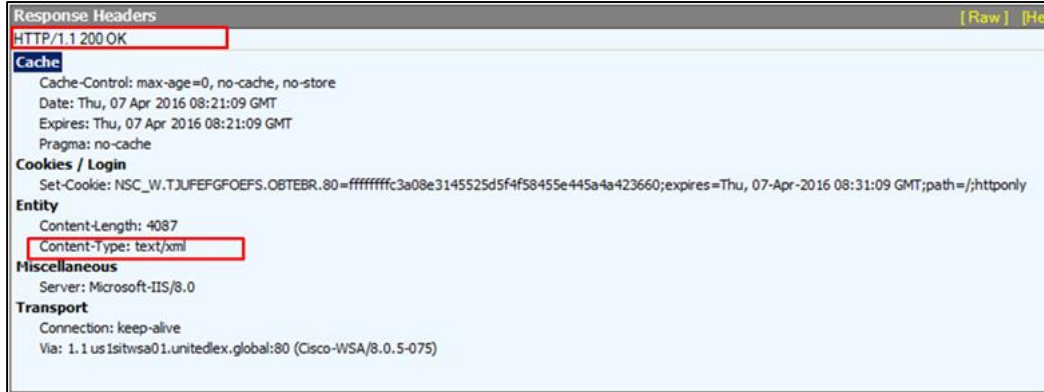**FIGURE 16**
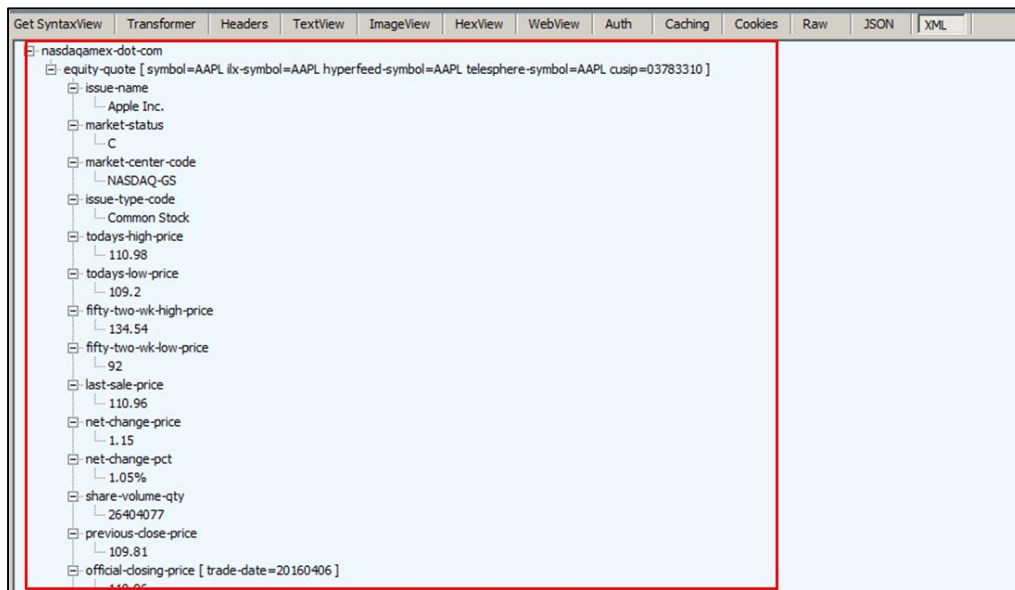
FIGURE 17

FIGURE 18

23.   The NASDAQ determines, based on the information associated with the one or more toolbar-defining databases, that the user Internet device should receive updated toolbar data. For example, as shown below in FIGURES 19-20, the user Internet device sends "GET" requests to a server at IP address 173.205.10.67 for updated toolbar data such as the latest quote data for "AAPL" stock. The NASDAQ controlled server responds to the request by sending the user Internet device updated toolbar data in the form of one or more HTTP/XML messages containing the updated toolbar data:

FIGURE 19

#	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

FIGURE 20

24.   That the NASDAQ controlled server determines, based on the information associated with the one or more toolbar-defining databases, that the user Internet device should receive updated toolbar data is shown below in FIGURES 21-23, where the NASDAQ controlled server responds to the "GET" request by sending updated toolbar data to the user Internet device. MyMail expects that access to the server-side source code will confirm that the server determines, based on the information associated with the one or more toolbar-defining databases, that the user Internet device should receive updated toolbar data.

25.   For example, as shown below the user internet device receives the updated toolbar data such as the latest quote data for Apple's stock, in the form of HTTP/XML messages from the server at IP address 173.205.10.67. The server sends the updated toolbar data, for example, the "AAPL" stock symbol information in response to the "GET" request sent from user internet device.

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FIGURE 21

#	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

FIGURE 22

Response Headers   [Raw] [Hea

HTTP/1.1 200 OK

Cache
    Cache-Control: max-age=0, no-cache, no-store
    Date: Thu, 07 Apr 2016 08:21:09 GMT
    Expires: Thu, 07 Apr 2016 08:21:09 GMT
    Pragma: no-cache
Cookies / Login
    Set-Cookie: NSC_W.TJUFEFGFOEFS.OBTEBR.80=ffffffffc3a08e3145525d5f4f58455e445a4a423660;expires=Thu, 07-Apr-2016 08:31:09 GMT;path=/;httponly
Entity
    Content-Length: 4087
    Content-Type: text/xml
Miscellaneous
    Server: Microsoft-IIS/8.0
Transport
    Connection: keep-alive
    Via: 1.1 us1sitwsa01.unitedlex.global:80 (Cisco-WSA/8.0.5-075)

FIGURE 23

Get SyntaxView | Transformer | Headers | TextView | ImageView | HexView | WebView | Auth | Caching | Cookies | Raw | JSON | XML

nasdaqamex-dot-com
  equity-quote [symbol=AAPL ilx-symbol=AAPL hyperfeed-symbol=AAPL telesphere-symbol=AAPL cusip=03783310]
    issue-name
      Apple Inc.
    market-status
      C
    market-center-code
      NASDAQ-GS
    issue-type-code
      Common Stock
    todays-high-price
      110.98
    todays-low-price
      109.2
    fifty-two-wk-high-price
      134.54
    fifty-two-wk-low-price
      92
    last-sale-price
      110.96
    net-change-price
      1.15
    net-change-pct
      1.05%
    share-volume-qty
      26404077
    previous-close-price
      109.81
    official-closing-price [trade-date=20160406]

26.   The NASDAQ Toolbar causes the user Internet device to receive the updated

toolbar data in response to determining that the user Internet device should receive the updated

toolbar data. For example, as shown below in FIGURES 24-26, the user Internet device receives

the updated toolbar data such as the latest quote data for Apple's stock, in the form of

HTTP/XML messages from the server at IP address 173.205.10.67. The NASDAQ controlled

server sends the updated toolbar data in response to determining that the user Internet device

should receive updated toolbar data, based on, for example, the "AAPL" stock symbol

information associated with toolbar-defining databases.

FIGURE 24

FIGURE 25

FIGURE 26

27.   The NASDAQ Toolbar initiates, at the user Internet device and without user interaction, an operation to update the toolbar data in accordance with the received updated toolbar data. For example, as shown below in FIGURES 27-29, the user Internet device receives the updated toolbar data, such as the latest quote data for Apple's stock, in the form of HTTP/XML messages from the server at IP address 173.205.10.67. The user Internet device updates the toolbar data by displaying the latest AAPL stock price on the "Last Searched Quotes" button in accordance to the received data without user interaction.

FIGURE 27

#	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

FIGURE 28

28.   The NASDAQ Toolbar further updates the toolbar data at the user Internet device based on the operation and in accordance with the updated toolbar data. For example, as shown below in FIGURES 31-32, the server at IP address173.205.10.67 sends the user Internet device updated toolbar data in the form of HTTP/XML messages containing the updated toolbar data:
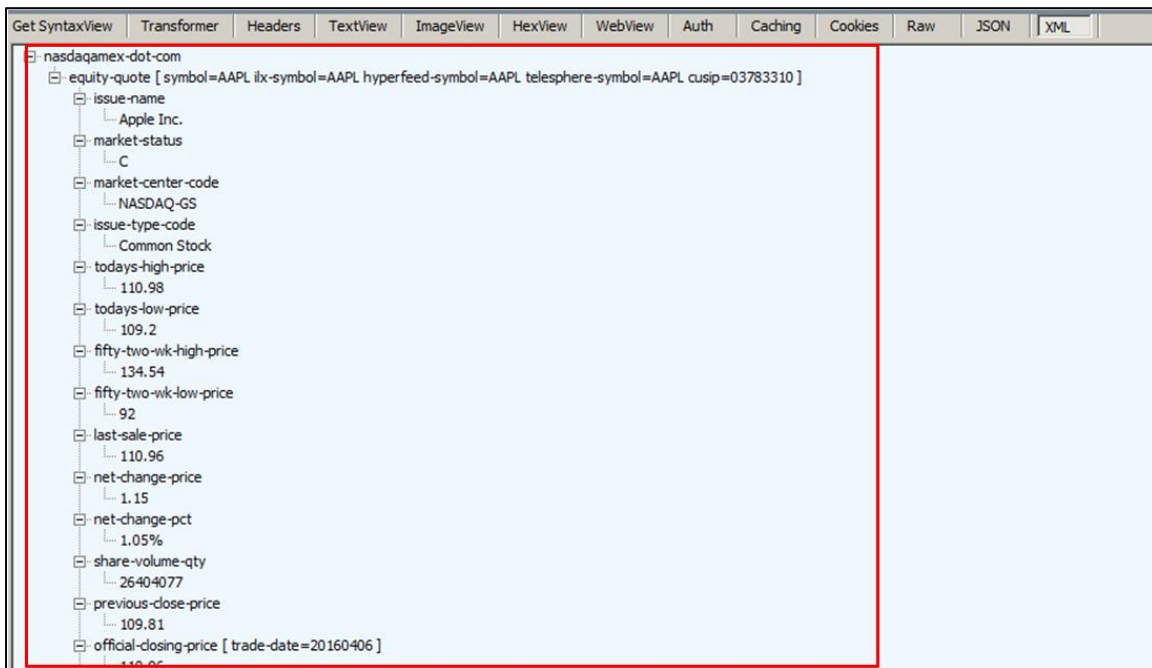
FIGURE 31

#	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

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FIGURE 32

29.   More particularly, the server sends the updated toolbar data such as last sale price

in the form of XML data, for example, as shown below in FIGURE 33:
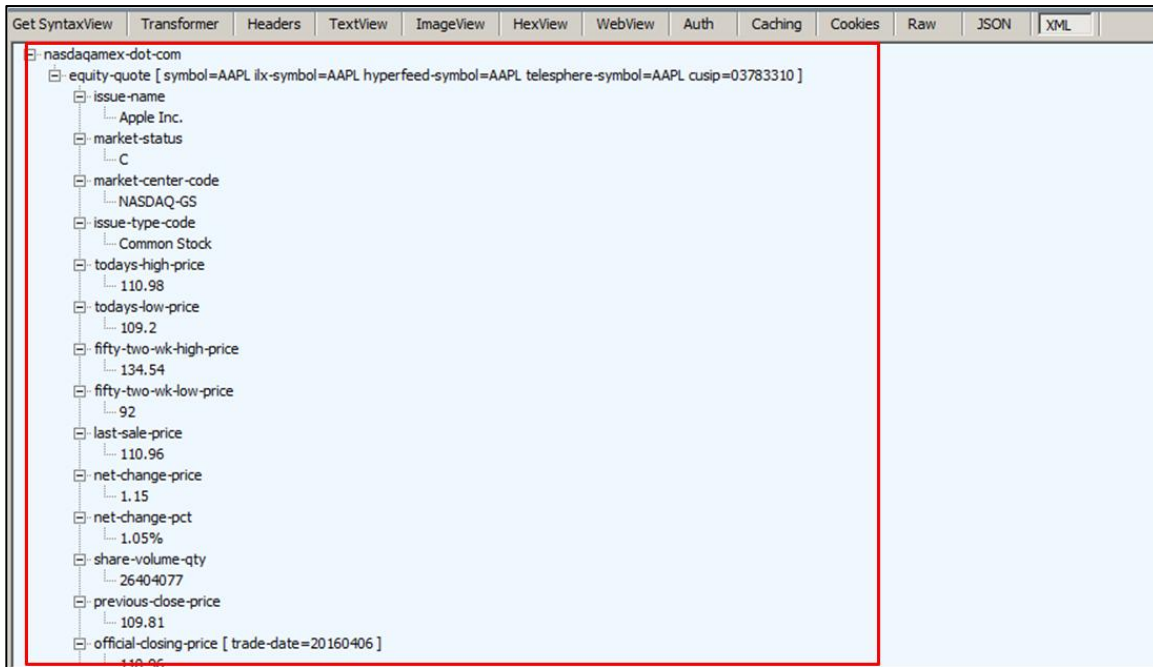
FIGURE 33

30.   The NASDAQ Toolbar is configured to receive the updated toolbar data and

perform an operation that includes, for example, updating the toolbar data to modify an attribute

of at least one of the one or more toolbar buttons of the toolbar. For example, as shown in

FIGURE 34, the NASDAQ Toolbar receives the updated toolbar data, in the form of an updated quote for Apple stock, and modifies an attribute of at least one of the one or more toolbar buttons of the toolbar, such as by displaying the latest AAPL stock price on the "Last Searched Quotes" button:

FIGURE 34

FIGURE 29

31.   The NASDAQ Toolbar of the user Internet device is configured to receive the updated toolbar data and initiates an operation that includes, for example, updating the toolbar data in accordance with the received updated toolbar data without user intervention or interaction. As shown below in FIGURE 30, the NASDAQ Toolbar receives the updated toolbar data, for example, in the form of an updated quote for Apple stock, and modifies an attribute of

at least one of the one or more toolbar buttons of the toolbar, such as by displaying the latest

AAPL stock price on the "Last Searched Quotes" button without any user interaction:

FIGURE 30

32.   The NASDAQ Toolbar causes the toolbar, as defined by the updated toolbar data,

to be displayed at the user Internet device. The information associated with the toolbar data

includes an IP address, as shown below in FIGURE 35:

FIGURE 35

| #	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

33.   The information associated with the toolbar further includes the "AAPL" name, as

shown below in FIGURE 36:

FIGURE 36

#	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

34.   As shown below In FIGURE 37, the NASDAQ Toolbar displays the toolbar as

defined by the updated toolbar data such as AAPL latest stock price, while one or more first

webpages of, for example, the Google website are being displayed on the user internet device.
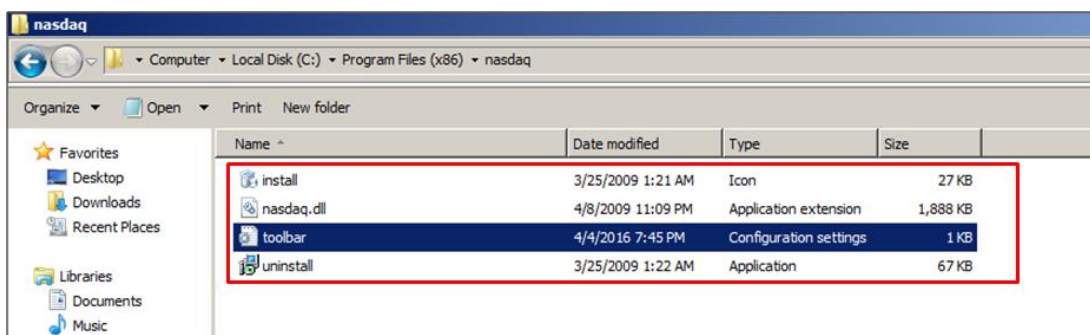
FIGURE 37
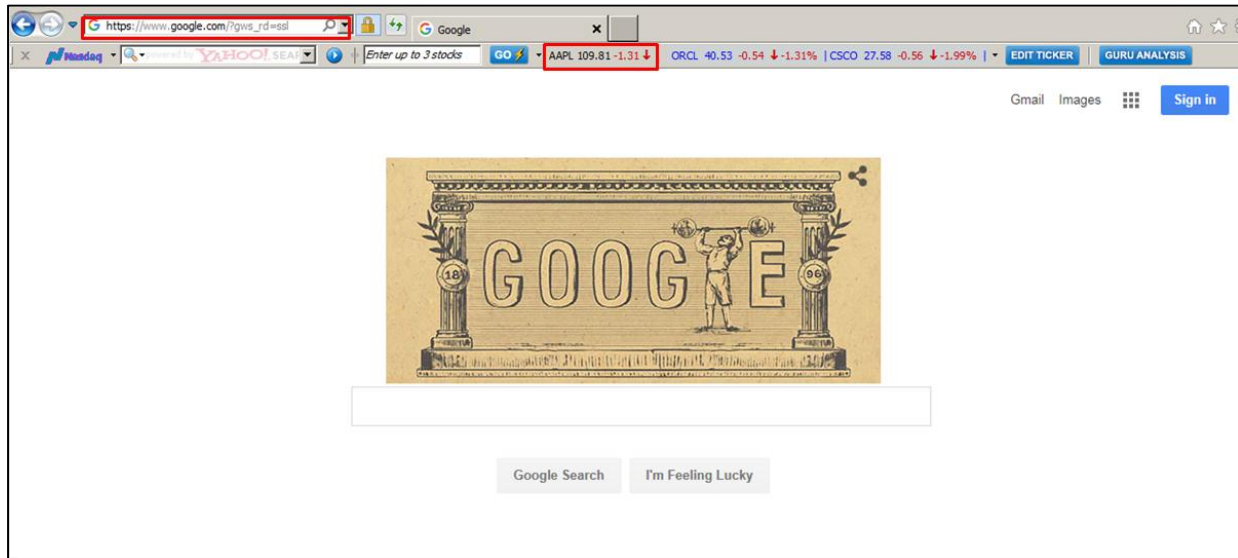
35.   The NASDAQ Toolbar is stored in at least one computer-readable memory device, such as, for example, the hard drive of the user Internet device, and comprises computer-executable instructions that perform a method for dynamically modifying a toolbar.

36.   The computer-executable instructions of NASDAQ Toolbar, for example, "nasdaq.dll" is embodied in computer readable memory at "C:\Program Files (x86)" as shown below in FIGURE 38.

FIGURE 38

37.   The NASDAQ Toolbar performs a method for dynamically modifying a toolbar using a remote source accessible through a network. For example, as shown below in FIGURE

39, the NASDAQ Toolbar uses a remote source, such as the remote source with IP Address

173.205.10.67, to dynamically modify the NASDAQ Toolbar by, for example, updating the

latest quote value for Apple, Inc. (AAPL) stock:

FIGURE 39

38.   The NASDAQ Toolbar establishes a connection between a network and a user

Internet device initiated by the user Internet device. For example, as shown below in FIGURE

40, a connection is established with a user Internet device such as the user's personal computer,

at IP Address 127.0.0.1. The connection is initiated by the user Internet device as shown below

when the user Internet device sends a "GET" request.

FIGURE 40

39.   The NASDAQ Toolbar further receives at the remote source information

associated with the toolbar data stored in toolbar-defining databases of the user Internet device.

For example, as shown below in FIGURES 41-42, the remote source at IP address 173.205.10.67

receives an HTTP "GET" request from the user Internet device that contains information

associated with the toolbar data stored in the one or more toolbar defining databases of the user

Internet device such as, for example, the stock symbol "AAPL" that is associated with the toolbar data stored in the Windows System Registry on the user Internet machine:

FIGURE 41

#	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

FIGURE 42
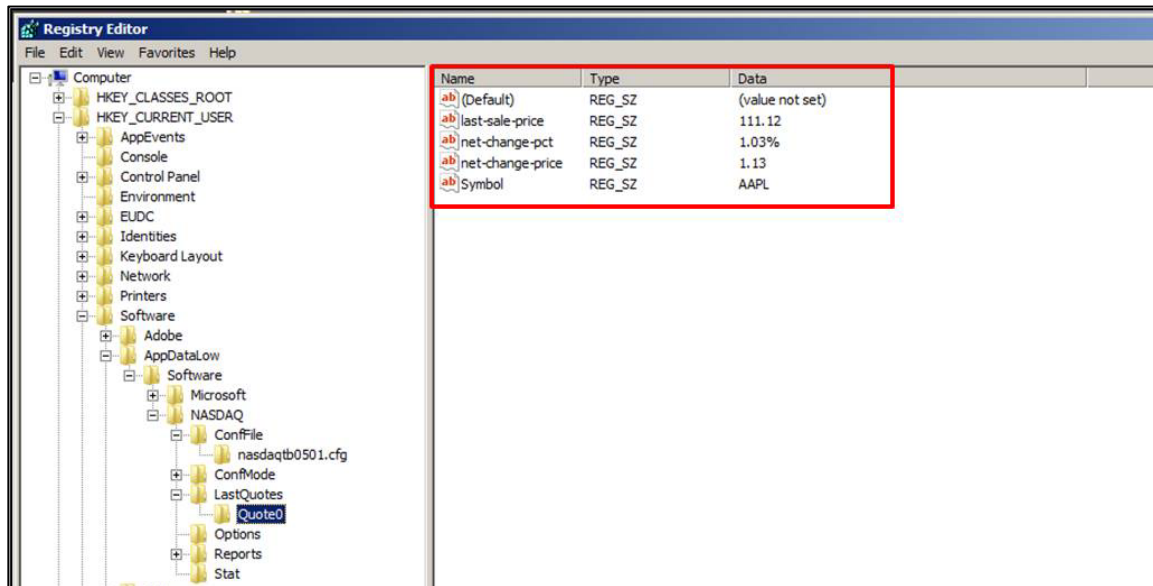
40.   The NASDAQ Toolbar further sends from the remote source via the network to the user Internet device the updated toolbar data to be stored in the toolbar-defining databases of the user Internet device. For example, as shown below in FIGURES 43-44, the remote source at IP address173.205.10.81 sends the user Internet device updated toolbar data in the form of HTTP/XML messages containing the updated toolbar data:

FIGURE 43

| #	X-ClientIP	X-HostIP	Result	Protocol	Host	URL	Body
4	127.0.0.1	173.205.10.67	200	HTTP	www.nasdaq.com	/quotedll/quote.dll?page=xml&mode=stock&partner=visicom&symbol=AAPL	4,087

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FIGURE 44

41.   The NASDAQ Toolbar causes the user Internet device to automatically send a revision level of the toolbar-defining databases to a predetermined network address.   For example, as shown below in FIGURES 45-48, a GET request sent from a user Internet device to a predetermined network address such as 173.205.10.81 that includes cookie data which is encoded (indicated by the red box) and this encoded data of cookie changes between different requests.   On information and belief the encoded cookie data shown below in the red box includes information that indicates a revision level.

FIGURE 45

FIGURE 46

FIGURE 47

FIGURE 48

42.   The NASDAQ Toolbar causes a server at the predetermined network address to determine, from the revision level, whether the user Internet device should receive updated toolbar data. For example, as shown below in FIGURES 49-50, a GET request is sent from a

user Internet device to a predetermined network address such as 173.205.10.81, which includes

revision level information (indicated by the red box).

FIGURE 49

FIGURE 50

43.   The server responds to the GET request by sending the user Internet device

updated toolbar data in the form of one or more Application/XML messages containing the

updated toolbar data, as shown below in FIGURE 51.

FIGURE 51

44.   On information and belief, the server determines, from the revision level, whether the user Internet device should receive the updated toolbar data. This is because, as shown above, the server responds to the "GET" request by sending updated toolbar data to the user Internet device. MyMail expects that access to the server-side source code will confirm that the server determines, from the revision level, the user Internet device should receive the updated toolbar data.

45.   The NASDAQ Toolbar integrates with a browser, such as Internet Explorer, on a device capable of communicating with other devices over a network such as a user Internet device.

46.   The NASDAQ Toolbar cause a toolbar to be displayed a user Internet device that includes one or more toolbar buttons.

47.   The one or more toolbar buttons of the NASDAQ Toolbar are defined by toolbar data stored in one or more toolbar-defining databases.

48.   The NASDAQ Toolbar's toolbar data comprises a plurality of toolbar button attributes associated with one or more toolbar buttons of the toolbar.

49.   At least one of the plurality of toolbar button attributes identifies a function to be performed by a specific toolbar button upon actuation of the toolbar button.

50.   The NASDAQ Toolbar performs the step of causing the user Internet device to send a revision level of one or more of the toolbar-defining databases to a predetermined network address.

51.   The NASDAQ Toolbar performs the step of causing the user Internet device to send information about one or more of the toolbar-defining databases to a server associated with a network address.

52.   The NASDAQ Toolbar further performs the step of "determining, from the revision level, that the user Internet device should receive the toolbar update data" at the "server at a predetermined network address."

53.   The NASDAQ Toolbar causes the user Internet device to receive the toolbar update data via the internet.

54.   The NASDAQ Toolbar causes the user Internet device, without user interaction, to initiate an operation to update the toolbar data in accordance with the toolbar update data received.

55.   The NASDAQ Toolbar causes the user Internet device to update the toolbar data by updating at least one attribute of the toolbar button data and displaying the toolbar as defined by the updated toolbar data.

56.   The NASDAQ Toolbar performs each of the functions described in the asserted claims, including the functions described above. In particular, the NASDAQ Toolbar software embedded in the browser of the user Internet device and remotely located, such as on a server remote from the user Internet device, instruct these devices to perform these functions. The NASDAQ Toolbar, therefore, directs and controls the functions of the user Internet device and the remote device(s) that perform the functions described above.

57.   To the extent any third party performs any of the functions described above, the performance of such functions is attributable to the NASDAQ Toolbar because it directs and controls the performance of those functions.

CLAIM 1 -- INFRINGEMENT OF U.S. PATENT NO. 8,275,863

58.   Plaintiff incorporates paragraphs 1 through 56 as though fully set forth herein.

59.   Upon information and belief, NASDAQ has been and is now directly infringing

one or more claims of the `863 Patent by using the NASDAQ Toolbar (including use for testing

purposes) in the United States in violation of 35 U.S.C. § 271(a).   The NASDAQ Toolbar

performs the method of modifying a toolbar as described in one or more of the claims of the '863

Patent.

60.   Plaintiff has been damaged by NASDAQ's infringing activities.

CLAIM 2 – INFRINGEMENT OF U.S. PATENT NO. 9,021,070

61.   Plaintiff incorporates paragraphs 1 through 59 as though fully set forth herein.

62.   Upon information and belief, NASDAQ has been and is now directly infringing

one or more claims of the '070 Patent by using (including use for testing purposes) the

NASDAQ Toolbar in violation of 35 U.S.C. § 271(a).   The NASDAQ Toolbar performs the

method for dynamically modifying a toolbar described and claimed in the '070 Patent.

63.   Plaintiff has been damaged by NASDAQ's infringing activities.

DEMAND FOR JURY TRIAL

64.   Plaintiff, pursuant to Rule 38 of the Federal Rules of Civil Procedure, requests a

trial by jury of any issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

1.   A judgment in favor of Plaintiff that NASDAQ has directly infringed one or more

claims of the Asserted Patents;

2.   A judgment and order requiring NASDAQ to pay Plaintiff damages adequate to

compensate for infringement under 35 U.S.C. § 284, which damages in no event shall be less

than a reasonable royalty for the use made of the inventions of the Asserted Patents, including

pre- and post-judgment interest and costs, including expenses and disbursements; and

      3.   Any and all such further necessary relief as the Court may deem just and proper

under the circumstances.

Dated: August 10, 2016   Respectfully submitted,

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