

Misc. Docket No. \_\_\_\_\_

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**United States Court of Appeals  
For the Federal Circuit**

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**IN RE FREELANCER LIMITED,**

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*Petitioner.*

*On Petition for a Writ of Mandamus to the  
United States District Court for the Western District of Texas  
Case No. 6:20-cv-00738-ADA, Judge Alan D. Albright*

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**PETITION FOR WRIT OF MANDAMUS WITH APPENDIX IN SUPPORT**

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June 9, 2021

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### Certificate of Interest

Counsel for Petitioner Freelancer Limited certifies the following:

1. The full name of every Party represented by me is:
  - Freelancer Limited
2. The name of Real Party in interest (Please only include any real party in interest NOT identified in Question 3) represented by me is:
  - Freelancer Limited
3. Parent corporations and publicly held companies that own 10% or more of stock in the party:
  - None
4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (and who have not or will not enter an appearance in this case) are:
  - None.
5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. *See* Fed. Cir. R. 47.4(a)(5) and 47.5(b).
  - None.
6. Any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).
  - None.

Dated: June 9, 2021

/s/ Andrew T. Oliver

Andrew T. Oliver  
Attorney for Defendant-Petitioner  
Freelancer Limited

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**Table of Abbreviations**

Greatgigz	Plaintiff Greatgigz Solutions, LLC
Freelancer	Defendant-Petitioner Freelancer Limited
'194 Patent	U.S. Patent No. 6,662,194
'086 Patent	U.S. Patent No. 7,490,086

### **Introduction**

Petitioner Freelancer Limited (“Freelancer”) requests that this Court issue a writ of mandamus to the United States District Court for the Western District of Texas requiring that court to stay all further proceedings in case no. 6:20-cv-00738-ADA, pending resolution of Freelancer’s motion to dismiss under Fed. R. Civ. P. 12.

Despite opening this case in August 2020, Greatgigz has not yet filed a complaint demonstrating that it can plead a claim for patent infringement against Freelancer. Freelancer has filed two motions to dismiss the complaint and amended complaint; the pending motion is dispositive and has not yet been decided. After the district court did not rule on the motion to dismiss, Freelancer moved the district court to stay the case pending its decision on the dispositive motion to dismiss. Yet the case is proceeding. Thus, Freelancer filed the instant petition and motion to stay.

The basis for requesting a stay here is more compelling than the basis for staying cases when a motion to transfer venue is pending. In cases where a motion to transfer venue is pending, it is likely that the case will go forward in either a transferee forum or the original forum (based on how the motion is decided). Regardless of forum, it is likely that the case will proceed. Yet, even in spite of this likelihood, this Court has ordered that a “district court must stay all

proceedings concerning the substantive issues in the case until such time that it has issued a ruling on the transfer motion capable of providing meaningful appellate review...” *In re SK Hynix Inc.*, 835 Fed. Appx. 600, 601 (Fed. Cir. 2021); *see also In re Tracfone Wireless, Inc.*, 2021 U.S. App. LEXIS 6689 at \*6 (Fed. Cir. Mar. 8, 2021) (“We also order that all proceedings in the case are stayed...”).

In the case presented by this petition, however, resolution of the motion to dismiss is likely to terminate the proceeding entirely. The pending motion to dismiss is a dispositive motion (admitted by plaintiff and supported by the procedural posture of the case). Thus, if the motion to dismiss is granted, the case will not proceed anywhere. Any work performed by the parties or the court while waiting for a ruling on the motion to dismiss will likely be lost entirely. So, unlike the situation presented with a venue transfer motion, failure to stay the action pending resolution of this motion to dismiss is likely to result in a total loss of effort by both the court and the parties, and also to subject Freelancer to undue burden.

Accordingly, and consistent with the law requiring stays of proceedings while deciding motions to transfer venue, it is entirely appropriate to require the district court to stay proceedings until it reaches a decision on a dispositive motion to dismiss under Rule 12.

### **Relief Sought**

Petitioner Freelancer Limited (“Freelancer”) requests that this Court issue a writ of mandamus to the United States District Court for the Western District of Texas requiring that court to stay all further proceedings in this case pending resolution of Freelancer’s motion to dismiss under Fed. R. Civ. P. 12 in an order that presents sufficient reasoning for appellate review.

### **Issues Presented**

1. Whether the district court abuses its discretion by failing to rule on a dispositive motion to dismiss filed almost 5 months ago which has been fully briefed and ready for decision for over 3 months.
2. Whether a stay should be ordered until the decision on the dispositive motion to dismiss is rendered.

### **Jurisdictional Statement**

The Federal Circuit has jurisdiction over this petition because it arises from a district court case in which the plaintiff claims patent infringement. 28 U.S.C. §1295. Mandamus is available “to correct a clear abuse of discretion or usurpation of judicial power.” *In re TS Tech. United States Corp.*, 551 F.3d 1315, 1318 (Fed. Cir. 2008). In considering another petition for writ of mandamus from the same district court, this Court has recently noted that “the district court’s failure to promptly act on [a] stay motion ... might tip the balance in favor of mandamus relief ...” *In re Adtran, Inc.*, 840 Fed. Appx. 516, 517 (Fed. Cir. Mar. 19, 2021);

*Accord In re Tracfone Wireless, Inc.*, No. 2021-118, 2021 U.S. App. LEXIS 6689, at \*1-2 (Fed. Cir. Mar. 8, 2021) (“[W]e have granted mandamus to stay proceedings and order prompt action on a long-pending motion to transfer where the district court has refused to take action...”).

## **Statement of Facts**

### **A. Procedural History**

This is a patent infringement case. Plaintiff Greatgigz asserts that Freelancer infringes U.S. Patents Nos. 6,662,194 (the '194 patent) and 7,490,086 (the '086 patent). Appx004-024.

On August 14, 2020, Greatgigz filed its original complaint. *Id.* Freelancer waived service, which set the deadline to respond to the complaint on November 9, 2020. *See* Appx002.

On November 9, 2020, Freelancer filed a motion to dismiss under Fed. R. Civ. P. 12, including for failure to state a claim on which relief may be granted. Appx025-124.

To moot the motion, Greatgigz filed an amended complaint on November 23, 2020. Appx125-149. The amended complaint contained minimal new pleadings of a factual nature. *Id.* Due primarily to counsel's heavy deadlines in attending to other matters, Freelancer requested and was granted a single extension of time to respond to the amended complaint. *See* Appx002.

On January 21, 2021, Freelancer filed the now-pending motion to dismiss under Fed. R. Civ. P. 12. Appx150-171. Greatgigz opposed the motion on February 18, 2021, but did not request leave to amend the already-amended complaint. Appx172-180. Thus, the pending motion to dismiss is a dispositive motion. Greatgigz has acknowledged as much. Appx211 (“...anytime a dispositive motion has been filed...”). Briefing on the motion to dismiss was completed on March 4, 2021, with Freelancer’s reply brief. Appx191-199.

During the briefing period, on January 22, 2021, the district court issued an email setting the Markman hearing for August 4, 2021, and directing the parties to file a joint proposed schedule based on that date. Appx209. On February 23, 2021, before briefing on the motion to dismiss was completed, the district court set the Markman hearing date for August 4, 2021, and set many other deadlines in the case. Appx186-190.

Three weeks after briefing on the motion to dismiss was complete, and with no indication of a hearing or ruling on the motion to dismiss, Freelancer filed a motion to stay the case pending resolution of the motion to dismiss. This motion to stay was filed on March 26, 2021. Appx200-209. Briefing was completed on April 21, 2021. Appx215-221.

No order has issued nor hearing been set on either the motion to dismiss or the motion to stay. *See generally* Appx001-003.

The parties have now moved into a more intense portion of the schedule (Appx188) in which Freelancer has already been required to provide its voluminous invalidity contentions, propose claim terms for construction, provide proposed claim constructions, and received Greatgigz opening claim construction brief on May 27, 2021. Appx003. Freelancer's reply will be due on June 17, 2021 (based on an agreement between the parties).

This petition follows the district court's failure to act on either the motion to dismiss or the motion to stay.

**B. Freelancer's Motion to Dismiss Is Likely To Be Granted And Dispose Of The Case**

**1. The Motion To Dismiss Is Dispositive**

While leave to amend a complaint following a motion to dismiss is often granted if requested, in this case, such leave was not requested. Therefore, the pending motion to dismiss is a dispositive motion.

Freelancer filed a first motion to dismiss in November 2020. Appx025 et seq. Greatgigz did not oppose that motion, but amended its complaint to moot the motion. Appx125 et seq. That spent Greatgigz's permitted amendment under Fed. R. Civ. P. 15(a)(1)(B).

Freelancer filed a second motion to dismiss. Appx150 et seq. Greatgigz did not amend or seek leave to amend its complaint. *See, e.g.*, Appx002-003. Nor did



Greatgigz request permission for such an amendment in its opposition brief. *See generally* Appx172-180. And Greatgigz has since acknowledged that Freelancer's motion to dismiss is dispositive. Appx211 ("...anytime a dispositive motion has been filed...").

That the pending motion to dismiss is dispositive weighs in favor of a stay.

**2. The Complaint Is Likely To Be Dismissed Because It Does Not And Cannot Show Plausible Facts Regarding The Claim Elements**

As noted in Freelancer's motion to dismiss for failure to state a claim, both claims of patent infringement (for the '086 and '194 patents) are likely to be dismissed because the pleadings are insufficient. *See generally* Appx150 et seq.

Infringement of the '194 patent requires a memory device, a processing device, and a transmitter. Appx158. The operative complaint does not contain sufficient factual allegations regarding any of those claim limitations. *See* Appx158-Appx163. As noted in the motion, factual support regarding at least the processor and transmitter is absent from the operative complaint. *Id.* Moreover, with respect to the processor, at least four sub-limitations are not supported by facts pled in the operative complaint. Appx161-162.

The same is generally true for the '086 patent. Appx163-165. Greatgigz failed to plead facts that plausibly showed the required memory, processor and

transmitter. *See* Appx163-165. And similarly, the processor of the '086 patent requires various functionality for which no plausible facts were pled. Appx164.

Thus, it is likely that the complaint will be dismissed with prejudice.

### **3. The Complaint Is Further Likely To Be Dismissed Because It Relies On Pleadings Of Contradictory Facts**

Where a complaint contains internal contradictions, it is not plausible and can be dismissed. Here, the operative complaint confuses what products or services are accused of infringement. Appx158. It further confuses whether or not Freelancer allegedly owns or operates the accused devices, or whether Amazon does. Appx159, Appx165.

Because these allegations are internally contradictory, it is likely that the operative complaint will be dismissed.

### **Reasons Why the Writ Should Issue**

#### **A. A Writ of Mandamus is Appropriate Here**

The district court abused its discretion and/or permitted usurpation of judicial power by failing to timely consider either of Freelancer's pending motions (i.e., to dismiss and to stay). "The writ of mandamus is available in extraordinary situations to correct a clear abuse of discretion or usurpation of judicial power." *In re TS Tech United States Corp.*, 551 F.3d 1315, 1318 (Fed. Cir. 2008). While many district courts will not set case schedules until after resolving Rule 12 motions, the district court in this case abused discretion and/or permitted

usurpation of judicial power by failing to consider whether Greatgigz can even state a claim for patent infringement before requiring that Freelancer engage in claim construction, related fact and expert discovery, and other proceedings. In fact, the district court set a schedule for the claim construction hearing and claim construction discovery *after* the dispositive motion to dismiss was pending, without regard to whether the complaint adequately stated a claim upon which relief can be granted.

This is contrary to the intent and policy of the Supreme Court, as stated in *Iqbal* and *Twombly*. In the *Iqbal* decision, the Court stated that where a complaint was deficient, discovery should not be permitted: “Because respondent’s complaint is deficient under Rule 8, he is not entitled to discovery, cabined or otherwise.” *Ashcroft v. Iqbal*, 556 U.S. 662, 686 (2009). The Court was clear in requiring, “[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief, ‘this basic deficiency should ... be exposed at the point of minimum expenditure of time and money by the parties and the court.’” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007). Over thirty years ago, the Court stated, “[A] district court must retain the power to insist upon some specificity in pleading before allowing a potentially massive factual controversy to proceed.” *Associated Gen. Contractors v. Cal. State Council of Carpenters*, 459 U.S. 519, 552 (1983).

Under the clear Supreme Court direction highlighting “minimum expenditure” and “not entitled to discovery,” it is abuse of discretion and/or permitting usurpation of judicial power to set a schedule and permit a case to proceed while a dispositive motion to dismiss for failure to state a claim is pending. Thus, the district court case should be stayed immediately, pending resolution of the motion to dismiss.

**1. Freelancer Already Sought A Stay From The District Court And Has No Other Means Of Obtaining A Stay**

In this case, without a writ of mandamus directing the district court to stay proceedings, Freelancer has no other means of obtaining a stay. To obtain relief via mandamus, “A party seeking a writ bears the burden of proving that it has no other means of obtaining the relief desired,” *In re TS Tech United States Corp.*, 551 F.3d 1315, 1318-19 (Fed. Cir. 2008). Here, Freelancer attempted to both dismiss the case and to stay the case; the district court has not taken any action on either motion. Appx001-003. As noted above, Freelancer’s first motion to dismiss was filed in November 2020 (Appx025 et seq.), the second motion to dismiss was filed in January 2021 (Appx150 et seq.), and the motion to stay in March 2021. Appx200 et seq. The district court has not acted on either the motion to dismiss or the motion to stay, nor has it given any indication that it intends to act on either motion. *See generally* Appx001-003. This is consistent with other cases where

this Court has issued writs of mandamus to the same district court based on the district court's inaction on pending motions.

Freelancer has no means to obtain a stay outside of a writ of mandamus.

**2. Freelancer's Right To A Writ Of Mandamus Is Clear And Indisputable**

A party seeking a writ bears the burden of proving ... that the right to issuance of the writ is "clear and indisputable." *In re TS Tech United States Corp.*, 551 F.3d 1315, 1318-19 (Fed. Cir. 2008). As the Supreme Court stated in laying out this standard, "The writ of mandamus has traditionally been used in the federal courts only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so." *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 35 (1980) (cleaned up). Here, the duty to act, i.e., to exercise authority, is clear and indisputable. And the failure to act on the pending motions is abuse of discretion and/or usurpation of power. *TS Tech*, 551 F.3d at 1318.

The mandate of the Supreme Court is clear and undisputed, as evidenced in multiple opinions.

*Iqbal* states that a party with a deficient complaint "is not entitled to discovery" of any type. 556 U.S. at 686. Here, the district court set a claim construction hearing date and required the parties to set a pre-hearing schedule including both claim construction-related fact and expert discovery and extensive

briefing *before* considering either the motion to dismiss the deficient complaint or the motion to stay pending resolution of the motion to dismiss. This directly contrasts with *Iqbal*'s prohibition on discovery where the complaint is deficient.

*Twombly* states that a "basic deficiency" in pleading should "be exposed at the point of minimum expenditure of time and money by the parties and the court." *Twombly*, 550 U.S. at 558. Freelancer's motion to dismiss the complaint that contains such basic deficiencies in pleading attempted to "expose" the issue at the "point of minimum expenditure." However, the district court's failure to take up the motion to dismiss (while concurrently requiring claim construction-related fact discovery, expert discovery, and briefing) is a failure to expose the deficient pleading at the point at which the Supreme Court demands such exposure.

And *Assoc. Gen. Contractors* states that "a district court must retain the power to insist upon some specificity in pleading" and that this power must be retained "*before* allowing a potentially massive factual controversy to proceed." *Assoc. Gen. Contractors*, 459 U.S. at 552 (emphasis added). The district court's failure to take up the motion to dismiss the deficient and non-specific complaint is an abdication of the power that the district court "must retain" and that must be retained "*before*" allowing the controversy to proceed. The district court's failure to take up the motion to stay furthers that abdication by allowing discovery and other adversarial proceedings to move forward. Abdication of control over the

proceedings is abuse of discretion.<sup>1</sup> Moreover, this abdication by the district court permits the plaintiff, here Greatgigz, to usurp judicial power by forcing Freelancer into unfounded proceedings without the judicial oversight mandated by the Supreme Court. This is precisely the type of situation for which mandamus is available and appropriate. *See TS Tech*, 551 F.3d at 1318 (“The writ of mandamus is available in extraordinary situations to correct a clear abuse of discretion or usurpation of judicial power.”).

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<sup>1</sup> A district court’s failure to exercise its power may be an abuse of discretion. *See, e.g., United States v. Black*, 733 F.3d 294, 301 (9th Cir. 2013) (“We review for abuse of discretion the district court’s decision not to use its supervisory powers to dismiss an indictment.”); *Virginian R. Co. v. Armentrout*, 166 F.2d 400, 408 (4th Cir. 1948) (“The power of this court to reverse the trial court for failure to exercise the power, where such failure, as here, amounts to an abuse of discretion, is likewise clear.”); *Geraghty v. United States Parole Com.*, 579 F.2d 238, 253 (3d Cir. 1978) (“Failure to exercise such power in a proper case has been held to be an abuse of discretion.”); *United States v. Veloz*, 948 F.3d 418, 432 (1st Cir. 2020) (“We review preserved challenges to the failure to exercise supervisory powers for abuse of discretion.”).

**B. The Facts Show That The Motion To Dismiss Is Dispositive, Well-Founded And Likely To Succeed**

**1. The Pending Motion To Dismiss Is Dispositive**

While leave to amend a complaint following a motion to dismiss is often granted if requested, in this case, such leave was not requested. Therefore, the pending motion to dismiss is a dispositive motion, making a stay appropriate.

Freelancer filed a first motion to dismiss in November 2020. Appx025 et seq. Greatgigz did not oppose that motion, but amended its complaint to moot the motion. Appx125 et seq. That spent Greatgigz's permitted amendment under Fed. R. Civ. P. 15(a)(1)(B).

Freelancer filed a second motion to dismiss. Appx150 et seq. Greatgigz did not amend or seek leave to amend its complaint. *See, e.g.*, Appx002-003. Nor did Greatgigz request permission for such an amendment in its opposition brief. *See generally* Appx172-180. And Greatgigz has since acknowledged that Freelancer's motion to dismiss is dispositive. Appx211 ("...anytime a dispositive motion has been filed...").

The fact that the pending motion to dismiss is dispositive weighs in favor of a stay.



**2. The Complaint Is Likely To Be Dismissed Because It Does Not And Cannot Show Plausible Facts Regarding The Claim Elements**

As noted in Freelancer's motion to dismiss for failure to state a claim, both claims of patent infringement (for the '086 and '194 patents) are likely to be dismissed because the pleadings are insufficient. *See generally* Appx150 et seq.

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Thus, it is likely that the complaint will be dismissed.

**3. The Complaint Is Likely To Be Dismissed Because It Relies On Pleadings Of Contradictory Facts**

Where a complaint contains internal contradictions, it is not plausible and can be dismissed. Here, the operative complaint confuses what products or

services are accused of infringement. Appx158. It further confuses whether or not Freelancer allegedly owns or operates the accused devices, or whether Amazon does. Appx159, Appx165.

Because these allegations are internally contradictory, it is likely that the operative complaint will be dismissed.

### **C. Proper Resolution**

Because the district court has not yet acted on either the motion to dismiss or the motion to stay, it remains critical that the district court address the motion to dismiss while keeping other expenditures of time, effort, and money by the court and the parties to a minimum and *before* any discovery or substantive proceedings occur. To allow this to happen, it is likewise critical to stay proceedings in the case until the district court has considered the motion to dismiss and issued an order with sufficient reasoning to be reviewed by an appellate court.

Accordingly, Freelancer requests that this Court direct the district court to stay all proceedings in this case at least until the district court has ruled on the motion to dismiss in a well-reasoned order.

### **Conclusion**

Freelancer respectfully requests relief consistent with the “statement of relief sought” set forth above, in particular directing the district court to stay all proceedings pending resolution of the motion to dismiss.

Dated: June 9, 2021

/s/ *Andrew T. Oliver*

Andrew T. Oliver

*Attorney for Defendant-Petitioner*

*Freelancer Limited*

### Appendix Table of Contents

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2/18/2021	Response in Opposition to Motion to Dismiss	Appx172
2/22/2021	Proposed Scheduling Order	Appx181
2/23/2021	Scheduling Order	Appx186
3/4/2021	Reply to Response to Motion to Dismiss	Appx191
3/26/2021	Opposed Motion to Stay Case Pending Resolution of Motion to Dismiss	Appx200
4/14/2021	Response in Opposition to Motion to Stay	Appx210
4/21/2021	Reply to Response to Motion to Stay	Appx215

### **Certificate of Compliance**

The undersigned certifies under Fed. R. App. P. 21(d)(1) and 32(g) that this brief complies with the type-volume limitation of Fed. R. App. P. 21(d)(1).

This brief contains 4,555 words, which is less than the 7,800 words for petitions under Fed R. App. P. 21(d)(1).

The brief was prepared in proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font. The undersigned relied on the word count feature of this word processing system as the basis for this certificate as permitted by Fed. R. App. P. 32(g)(1).

Dated: June 9, 2021

/s/ *Andrew T. Oliver*

Andrew T. Oliver

*Attorney for Defendant-Petitioner  
Freelancer Limited*

### **Certificate of Service**

I certify that, on June 9, 2021, I caused the foregoing to be served on all counsel of record via electronic mail to:

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Dated: June 9, 2021

/s/ *Andrew T. Oliver*

Andrew T. Oliver

*Attorney for Defendant-Petitioner*

*Freelancer Limited*

Misc. Docket No. \_\_\_\_\_

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**United States Court of Appeals  
For the Federal Circuit**

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**IN RE FREELANCER LIMITED,**

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*Petitioner.*

*On Petition for a Writ of Mandamus to the  
United States District Court for the Western District of Texas  
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**APPENDIX**

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June 9, 2021

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Freelancer Limited*

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4/21/2021	Reply to Response to Motion to Stay	Appx215



**U.S. District Court [LIVE]  
Western District of Texas (Waco)  
CIVIL DOCKET FOR CASE #: 6:20-cv-00738-ADA**

GreatGigz Solutions, LLC v. Freelancer Limited  
Assigned to: Judge Alan D Albright  
Cause: 35:271 Patent Infringement

Date Filed: 08/14/2020  
Jury Demand: Plaintiff  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff**

**GreatGigz Solutions, LLC**

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V.

**Defendant**

**Freelancer Limited**

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Date Filed	#	Docket Text
03/24/2020	<a href="#">6</a>	STANDING ORDER from U.S. District Judge Alan D. Albright regarding scheduled civil hearings. Signed by Judge Alan D Albright. (Attachments: # <a href="#">1</a> Supplemental Standing Order from Chief Judge Garcia re COVID19 Court Procedures)(mc5) (Entered: 08/14/2020)
08/14/2020	<a href="#">1</a>	COMPLAINT ( Filing fee \$ 400 receipt number 0542-13864243), filed by GreatGigz Solutions, LLC. (Attachments: # <a href="#">1</a> Civil Cover Sheet)(Fasone, Thomas) (Entered: 08/14/2020)
08/14/2020	<a href="#">2</a>	REQUEST FOR ISSUANCE OF SUMMONS by GreatGigz Solutions, LLC. (Fasone, Thomas) (Entered: 08/14/2020)
08/14/2020	<a href="#">3</a>	Notice of Filing of Patent/Trademark Form (AO 120). AO 120 forwarded to the Director of the U.S. Patent and Trademark Office. (Fasone, Thomas) (Entered: 08/14/2020)
08/14/2020	<a href="#">4</a>	MOTION to Appear Pro Hac Vice by Rene A. Vazquez ( Filing fee \$ 100 receipt number 0542-13864285) by on behalf of GreatGigz Solutions, LLC. (Vazquez, Rene) (Entered: 08/14/2020)
08/14/2020		Case assigned to Judge Alan D Albright. CM WILL NOW REFLECT THE JUDGE INITIALS AS PART OF THE CASE NUMBER. PLEASE APPEND THESE JUDGE INITIALS TO THE CASE NUMBER ON EACH DOCUMENT THAT YOU FILE IN THIS CASE. (bw) (Entered: 08/14/2020)
08/14/2020	<a href="#">5</a>	Summons Issued as to Freelancer Limited. (bw) (Entered: 08/14/2020)
08/14/2020		Text Order GRANTING <a href="#">4</a> Motion to Appear Pro Hac Vice for Attorney Rene A. Vazquez for GreatGigz Solutions, LLC. Before the Court is the Motion for Admission Pro Hac Vice. The Court, having reviewed the Motion, finds it should be GRANTED and therefore orders as follows: IT IS ORDERED the Motion for Admission Pro Hac Vice is GRANTED. IT IS FURTHER ORDERED that Applicant, if he/she has not already done so, shall immediately tender the amount of \$100.00, made payable to: Clerk, U.S. District Court, in compliance with Local Rule AT-I (f)(2). IT IS FURTHER ORDERED that Applicant, if he/she has not already done so, shall apply for admission to the bar of this court in compliance with Local Rule AT-I(f)(1). Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order entered by Judge Alan D Albright. (This is a text-only entry generated by the court. There is no document associated with this entry.) (sm3) (Entered: 08/14/2020)
09/10/2020	<a href="#">7</a>	WAIVER OF SERVICE Returned Executed by GreatGigz Solutions, LLC as to Freelancer Limited. Waiver sent on 9/8/2020, answer due 11/9/2020. (Fasone, Thomas) (Entered: 09/10/2020)
09/22/2020	<a href="#">8</a>	Standing Order Regarding Notice of Readiness in Patent Cases (Entered: 10/05/2020)
11/03/2020	<a href="#">9</a>	RULE 7 DISCLOSURE STATEMENT filed by Freelancer Limited. (Oliver, Andrew) (Entered: 11/03/2020)
11/04/2020	<a href="#">10</a>	NOTICE of Attorney Appearance by Michael C. Ting on behalf of Freelancer Limited (Ting, Michael) (Entered: 11/04/2020)
11/08/2020	<a href="#">11</a>	Motion to Dismiss for Failure to State a Claim by Freelancer Limited. (Attachments: # <a href="#">1</a> Exhibit A - 194 patent, # <a href="#">2</a> Exhibit B - 086 patent, # <a href="#">3</a> Proposed Order)(Oliver, Andrew) Modified on 11/10/2020 (lad). (Entered: 11/08/2020)
11/09/2020	<a href="#">12</a>	DEFICIENCY NOTICE: re <a href="#">11</a> Motion to Dismiss for Failure to State a Claim (lad) (Entered: 11/09/2020)
11/09/2020	<a href="#">13</a>	CORRECTED Motion to Dismiss for Failure to State a Claim by Freelancer Limited. (Attachments: # <a href="#">1</a> Exhibit A - 194 patent, # <a href="#">2</a> Exhibit B - 086 patent, # <a href="#">3</a> Proposed Order)(Oliver, Andrew) (Entered: 11/09/2020)
11/23/2020	<a href="#">14</a>	STATUS REPORT <i>CASE READINESS STATUS REPORT</i> , by <i>Freelancer Limited</i> and by GreatGigz Solutions, LLC. (Fasone, Thomas) (Entered: 11/23/2020)
11/23/2020	<a href="#">15</a>	AMENDED COMPLAINT against Freelancer Limited amending, filed by GreatGigz Solutions, LLC.(Fasone, Thomas) (Entered: 11/23/2020)
11/23/2020	<a href="#">16</a>	Response in Opposition to Motion, filed by GreatGigz Solutions, LLC, re <a href="#">13</a> CORRECTED Motion to Dismiss for Failure to State a Claim filed by Defendant Freelancer Limited (Fasone, Thomas) (Entered: 11/23/2020)
12/06/2020	<a href="#">17</a>	Unopposed MOTION for Extension of Time to File Answer re <a href="#">15</a> Amended Complaint by Freelancer Limited. (Attachments: # <a href="#">1</a> Proposed Order)(Oliver, Andrew) (Entered: 12/06/2020)
12/11/2020		Text Order GRANTING <a href="#">17</a> Motion for Extension of Time to Answer entered by Judge Alan D Albright. The deadline for Defendant Freelancer Limited to answer or otherwise respond to Plaintiff's Amended Complaint shall be extended to January 21, 2021. (This is a text-only entry generated by the court. There is no document associated with this entry.) (re) (Entered: 12/11/2020)
12/11/2020		Reset Deadlines: Freelancer Limited answer due 1/21/2021. (lad) (Entered: 12/11/2020)
01/13/2021	<a href="#">18</a>	Unopposed MOTION to Withdraw as Attorney by GreatGigz Solutions, LLC. (Attachments: # <a href="#">1</a> Proposed Order)(Mort, Raymond) (Entered: 01/13/2021)
01/20/2021		Text Order GRANTING <a href="#">18</a> Motion to Withdraw as Attorney entered by Judge Alan D Albright. The Court ORDERS that Raymond W. Mort, III is granted leave to withdraw as counsel for Plaintiff in this matter. (This is a text-only entry generated by the court. There is no document associated with this entry.) (re) (Entered: 01/20/2021)

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01/21/2021	<a href="#">19</a>	Motion to Dismiss for Failure to State a Claim by Freelancer Limited. (Attachments: # <a href="#">1</a> Proposed Order)(Oliver, Andrew) (Entered: 01/21/2021)
02/04/2021	<a href="#">20</a>	Unopposed MOTION for Extension of Time to File Response/Reply to <i>Motion to Dismiss</i> by GreatGigz Solutions, LLC. (Attachments: # <a href="#">1</a> Proposed Order)(Fasone, Thomas) (Entered: 02/04/2021)
02/05/2021		Text Order GRANTING <a href="#">20</a> Motion for Extension of Time to File Response/Reply entered by Judge Alan D Albright. The Court, having considered Plaintiffs Unopposed Motion To Extend The Deadlines For Plaintiff's Response And Defendant's Reply To Defendant's Motion To Dismiss, GRANTS the Motion. Accordingly, it is hereby ORDERED that the deadline for Plaintiff to respond to Defendant's Motion to Dismiss [Dkt. No. 19] shall be up to and including February 18, 2021, and the deadline for Defendant to reply shall be up to and including March 4, 2021. (This is a text-only entry generated by the court. There is no document associated with this entry.) (re) (Entered: 02/05/2021)
02/12/2021	<a href="#">24</a>	Standing Order Regarding Filing Documents Under Seal and Redacted Pleadings in Patent Cases. Signed by Judge Alan D Albright. as of 2/12/2021. (bot1) (Entered: 02/24/2021)
02/18/2021	<a href="#">21</a>	Response in Opposition to Motion, filed by GreatGigz Solutions, LLC, re <a href="#">19</a> Motion to Dismiss for Failure to State a Claim filed by Defendant Freelancer Limited (Garteiser, Randall) (Entered: 02/18/2021)
02/22/2021	<a href="#">22</a>	Proposed Scheduling Order <i>AGREED PROPOSED SCHEDULING ORDER</i> by GreatGigz Solutions, LLC. (Fasone, Thomas) (Entered: 02/22/2021)
02/23/2021	<a href="#">23</a>	SCHEDULING ORDER: Markman Hearing set for 8/4/2021 before Judge Alan D Albright. Joinder of Parties due by 9/15/2021. Amended Pleadings due by 11/24/2021. Motions due by 4/25/2022. Pretrial Conference set for 6/22/2022 before Judge Alan D Albright. Jury Selection and Jury Trial set for 7/18/2022 before Judge Alan D Albright. Signed by Judge Alan D Albright. (am) (Entered: 02/23/2021)
03/04/2021	<a href="#">25</a>	REPLY to Response to Motion, filed by Freelancer Limited, re <a href="#">19</a> Motion to Dismiss for Failure to State a Claim filed by Defendant Freelancer Limited (Oliver, Andrew) (Entered: 03/04/2021)
03/26/2021	<a href="#">26</a>	Opposed MOTION to Stay Case <i>Pending Resolution of Motion to Dismiss</i> by Freelancer Limited. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Proposed Order)(Oliver, Andrew) (Entered: 03/26/2021)
04/09/2021	<a href="#">27</a>	Unopposed MOTION for Extension of Time to File Response/Reply as to <a href="#">26</a> Opposed MOTION to Stay Case <i>Pending Resolution of Motion to Dismiss</i> by GreatGigz Solutions, LLC. (Attachments: # <a href="#">1</a> Proposed Order)(Fasone, Thomas) (Entered: 04/09/2021)
04/09/2021		Text Order GRANTING <a href="#">27</a> Motion for Extension of Time to File Response/Reply entered by Judge Alan D Albright. It is hereby ORDERED that the deadline for Plaintiff to respond to Defendant's Motion to Stay [Dkt. No. 26] is up to and including April 14, 2021. (This is a text-only entry generated by the court. There is no document associated with this entry.) (re) (Entered: 04/09/2021)
04/14/2021	<a href="#">28</a>	Response in Opposition to Motion, filed by GreatGigz Solutions, LLC, re <a href="#">26</a> Opposed MOTION to Stay Case <i>Pending Resolution of Motion to Dismiss</i> filed by Defendant Freelancer Limited (Fuller, M.) (Entered: 04/14/2021)
04/21/2021	<a href="#">29</a>	REPLY to Response to Motion, filed by Freelancer Limited, re <a href="#">26</a> Opposed MOTION to Stay Case <i>Pending Resolution of Motion to Dismiss</i> filed by Defendant Freelancer Limited (Oliver, Andrew) (Entered: 04/21/2021)
05/27/2021	<a href="#">30</a>	BRIEF by GreatGigz Solutions, LLC. (Attachments: # <a href="#">1</a> Exhibit A - US Patent No 6,662,194 B1, # <a href="#">2</a> Exhibit B - US Patent No 7,490,086 B2, # <a href="#">3</a> Exhibit C - Dictionaries)(Vazquez, Rene) (Entered: 05/27/2021)

PACER Service Center			
Transaction Receipt			
06/09/2021 04:36:01			
PACER Login:		Client Code:	
Description:	Docket Report	Search Criteria:	6:20-cv-00738-ADA
Billable Pages:	4	Cost:	0.40

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**GREATGIGZ SOLUTIONS, LLC,**

Plaintiff

v.

**FREELANCER LIMITED,**

Defendant

**Case No. 6:20-cv-00738**

**JURY TRIAL DEMANDED**

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

GreatGigz Solutions, LLC (“Plaintiff”) hereby files this Original Complaint for Patent Infringement against Freelancer Limited (“Freelancer” or “Defendant”), and alleges, on information and belief, as follows:

**THE PARTIES**

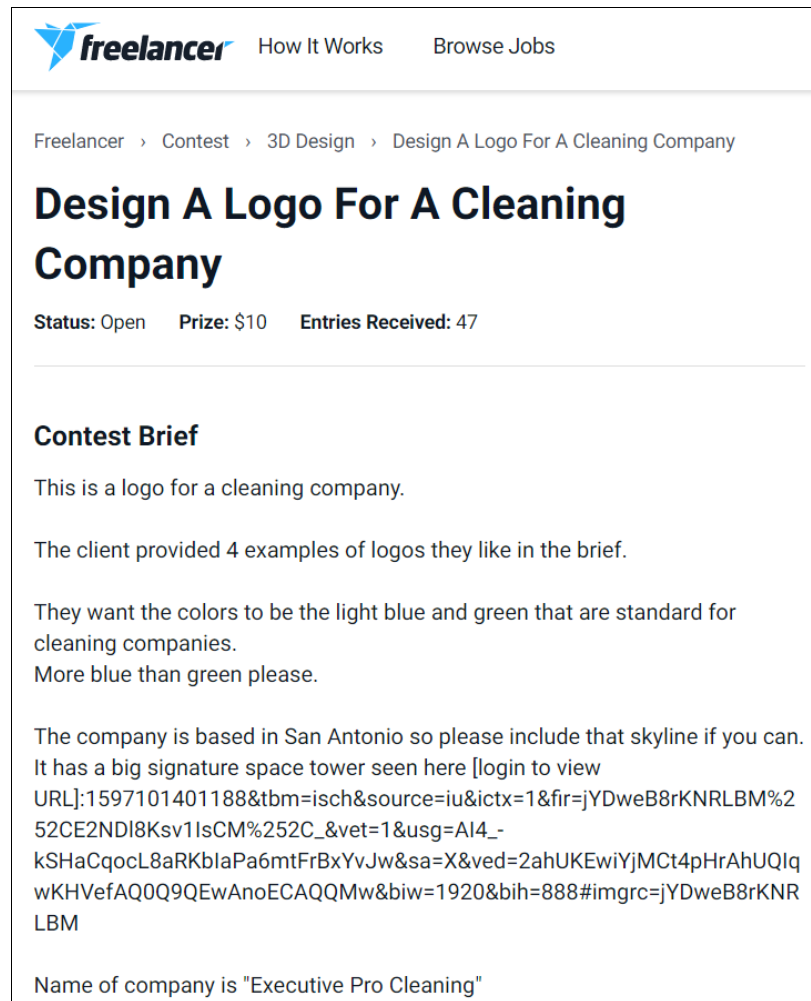
1. GreatGigz Solutions, LLC is a limited liability company organized and existing under the laws of the State of Florida with its principal place of business at 600 S. Dixie Hwy, Suite 605, West Palm Beach, Florida 33401.
2. On information and belief, Freelancer Limited is an entity formed and operating under the laws of Australia, with a principal place of business located at Level 37, Grosvenor Place, 225 George Street, Sydney, NSW 2000, Australia ACN 141 959 042. On information and belief, Freelancer is publicly traded on the Australian Security Exchange under the ticker ASX:FLN. On information and belief, Freelancer maintains corporate offices at locations worldwide, including Vancouver, Canada, but has no primary place of business in the United States. On information

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

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and belief, Freelancer is not registered to conduct business in the State of Texas, and has no registered agent for service in the State of Texas.

3. On information and belief, Freelancer operates the web domain at [www.freelancer.com](http://www.freelancer.com), which is readily available to residents of this District, and is used extensively by residents of the State of Texas and of this District. By way of example, a current contest running on [freelancer.com](http://freelancer.com) is for a cleaning company based in San Antonio, Texas:



4. On information and belief, Freelancer sells and offers to sell products and services throughout the State of Texas, including in this judicial District, and introduces services via its infringing systems into the stream of commerce knowing and intending that they would be extensively used

in the State of Texas and in this judicial District. On information and belief, Freelancer specifically targets customers in the State of Texas and in this judicial District.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1338.
6. This Court has personal jurisdiction over Defendant. Defendant has continuous and systematic business contacts with the State of Texas. Defendant directly conducts business extensively throughout the State of Texas, by distributing, making, using, offering for sale, selling, and advertising (including the provision of interactive web pages and mobile applications) its services in the State of Texas and in this District. Defendant has purposefully and voluntarily made its infringing systems available to residents of this District and into the stream of commerce with the intention and expectation that they will be purchased and used by consumers in this District. On information and belief, Freelancer currently connects over 46 Million employers and freelancers globally from over 247 countries, regions, and territories. On information and belief, in 2019 Freelancer reported net revenues of \$58 Million on a gross volume of \$788 Million.
7. Venue is proper in the Western District of Texas as to Defendant pursuant to at least 28 U.S.C. §§ 1391(c)(3) and 1400(b).

### **PATENTS-IN-SUIT**

8. GreatGigz Solutions, LLC is the owner, by assignment, of U.S. Patent Nos. 6,662,194 (“the ’194 Patent”); 7,490,086 (“the ’086 Patent”); 9,760,864 (“the ’864 Patent”); and 10,096,000 (“the ’000 Patent”) (hereinafter collectively referred to as “the GGS Patents”).
9. The GGS Patents are valid, enforceable, and were duly issued in full compliance with Title 35 of the United States Code.

10. The inventions described and claimed in the GGS Patents were invented by Raymond Anthony Joao.
11. The GGS Patents each include numerous claims defining distinct inventions.
12. The priority date of each of the GGS Patents is at least as early as July 31, 1999. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.
13. For example, and as evidence of the stated non-routine aspects of the inventions, during prosecution of the '864 Patent, the patent examiner considered whether the claims of the '864 Patent were eligible under 35 USC §101 in view of the United States Supreme Court's decision in *Alice*. The patent examiner affirmatively and expressly found that the claims are in fact patent eligible under 35 USC §101 because all pending claims are directed to patent-eligible subject matter, because none of the pending claims are directed to an abstract idea, and because there would be no preemption of the abstract idea or the field of the abstract idea.
14. GreatGigz Solutions, LLC alleges infringement on the part of Defendant of the '194 Patent and the '086 Patent (collectively as the "Asserted Patents").
15. The '194 Patent relates generally to an apparatus and method for providing recruitment information, including a memory device for Storing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and information regarding a job Search request, a processing device for processing information regarding the job Search request upon a detection of an occurrence of a Searching event, wherein the processing device utilizes information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, Stored in the memory device, and further wherein the processing device generates a message containing information regarding at least one of a job opening, a position, an

assignment, a contract, and a project, wherein the message is responsive to the job Search request, and a transmitter for transmitting the message to a communication device associated with an individual in real-time. *See* Abstract, '194 Patent.

16. The '086 Patent relates generally to an apparatus, including a memory device which stores information regarding a job opening, position, assignment, contract, or project, and information regarding a job search request or inquiry, a processing device which processing the information regarding a job search request or inquiry upon an automatic detection of an occurrence of a searching event which is an occurrence of a job posting, a posting of new or revised data or information, a news release of a business event, an employment-related event, an economic report, industry-specific news, an event which creates an to fill a position, or an event which creates an interest to seek a position, and generates a message, containing the information regarding a job opening, position, assignment, contract, or project, responsive to the job search request or inquiry, and a transmitter which transmits the message to a communication device associated with an individual. *See* Abstract, '086 Patent.
17. As noted, the claims of the Asserted Patents claim priority to at least July 31, 1999.
18. The claims of the Asserted Patents are not drawn to laws of nature, natural phenomena, or abstract ideas. Although the systems and methods claimed in the Asserted Patents are ubiquitous now (and, as a result, are widely infringed), the specific combinations of elements, as recited in the claims, was not conventional or routine at the time of the invention.
19. Further, the claims of the Asserted Patents contain inventive concepts which transform the underlying non-abstract aspects of the claims into patent-eligible subject matter.



20. Consequently, the claims of the Asserted Patents recite systems and methods resulting in improved functionality of the claimed systems and represent technological improvements to the operation of computers.
21. The claims of the Asserted Patents overcome deficiencies existing in the art as of the date of invention, and comprise non-conventional approaches that transform the inventions as claimed into substantially more than mere abstract ideas. For example, as of the date of invention, “[j]ob searching activities and recruitment activities typically require efforts in introducing parties to one another, pre-screening the parties prior to, and/or subsequent to, an introduction, acting as an information gathering entity for a party, exchanging information in order to determine if a relationship is appropriate and/or desirable, negotiating a deal, and/or consummating a deal between the respective parties. While individuals and/or employers and/or hiring entities can act on their own behalf during most of the process, one of the parties may typically enlist the efforts of an employment agency or agencies, a recruiter(s), a so-called ‘headhunter(s)’, an employment and/or career consultant(s), a temporary employment agency or agencies, a personal agent(s), a personal manager(s), and/or another intermediary or intermediaries, sometimes at great expense.” ’194 Patent at 1:59-2:6. The inventions as claimed overcome these deficiencies in the state of the art, and provide substantial cost savings to all parties. As explained, as of the date of invention, “[t]he enlistment of employment agencies, recruiters, so-called ‘headhunters’, employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, can be costly and can lead to job search efforts and/or recruitment efforts which may be limited in breadth and/or scope by the personal and/or individual contacts, limitations and/or constraints associated with the employment agency, recruiter, so-called ‘headhunter’, employment and/or career consultant, temporary employment

agency, personal agent, personal manager, and/or other intermediary.” *Id.* at 2:7-17. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for a costly middle-man in the process is overcome. *Id.* at 2:18-24; 6:45-55.

22. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[j]ob searching efforts and recruitment efforts may be limited by and/or be constrained by limited personal contacts, geographical constraints, monetary constraints, and/or time constraints. Oftentimes, individuals, employers and/or hiring entities, do not have the resources to conduct their own respective job searching efforts or recruitment efforts. The enlistment of employment agencies, recruiters, so-called ‘headhunters’, employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, may not be sufficient to overcome these limitations and/or constraints, particularly, if the respective employment agency or agencies, recruiter(s), so-called ‘headhunter(s)’, employment and/or career consultant(s), temporary employment agency or agencies, personal agent(s), personal manager(s) and/or other intermediary or intermediaries, are working with similar limitations and/or constraints.” *Id.* at 2:26-42. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for extensive personal contacts and geographical proximity are overcome.
23. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[t]he job search process and/or the recruitment process can typically be rendered more difficult in instances when additional information may be requested by one or by both of

the parties concerning a counterpart. This typically results in time delays and/or additional expense to the party having to comply with such a request.” *Id.* at 2:43-48. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for time-consuming delays is overcome.

24. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[j]ob searching efforts and/or recruitment efforts may further be rendered more difficult when the parties are not properly pre-screened, thereby resulting in wasted time and effort, and/or when the parties are not properly informed as to the needs and/or demands of a counterpart. The needs and/or demands can include job description, job needs, project description, assignment description, salary, compensation, and/or other related information. The failure to pre-screen the parties and/or to conduct a dialog and/or initiate interviews and/or discussions when the parties may be so far apart regarding their respective needs, requests and/or expectations, for example, those involving job duties and/or salary, can result in wasted time and effort.” *Id.* at 2:49-61. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the associated time and effort are reduced, resulting in more efficient processes and cost savings for all involved.
25. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[c]onfidentiality is typically another concern in job searching activities and/or in recruitment activities. Individuals, employees, and/or hiring entities may have an interest in, and/or a desire for, maintaining confidentiality during at least some initial stages of any job search and/or recruitment effort. In some instances, once an initial interest is expressed, any

confidentiality which may have existed may be lost for the remainder of the process. Sometimes, it may be desirable for an individual, an employer and/or hiring entity, to retain at least some level of confidentiality and/or anonymity further into the job search and/or recruitment process. In this manner, at least some confidentiality and/or anonymity can be preserved, especially if a deal between the parties is not ultimately reached.” *Id.* at 2:62-3:8. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for confidentiality in the process is enhanced. *See id.* at 6:59-65.

26. As noted above, during prosecution of the ’864 Patent, the patent examiner considered whether the claims of the ’864 Patent were eligible under 35 USC §101 in view of the United States Supreme Court’s decision in *Alice*. The patent examiner expressly found that the claims are in fact patent eligible under 35 USC §101 because all pending claims are directed to patent-eligible subject matter, none of the pending claims are directed to an abstract idea, and there would be no preemption of the abstract idea or the field of the abstract idea. For these same reasons, all of the claims of the Asserted Patents are patent-eligible.
27. The ’194 Patent was examined by Primary United States Patent Examiner Franz Colby. During the examination of the ’194 Patent, the United States Patent Examiner searched for prior art in the following US Classifications: 705/1, 10, 11, 705/26, 707/104.1, 10, 3, and 103R.
28. After conducting a search for prior art during the examination of the ’194 Patent, the United States Patent Examiner identified and cited the following as the most relevant prior art references found during the search: (i) 5,164,897, 11/1992, Clark et al.; (ii) 5,832,497, 11/1998, Taylor; (iii) 5,884,270, 3/1999, Walker et al.; (iv) 5,884,272, 3/1999, Walker et al.; (v) 5,978,768, 11/1999, McGovern et al.; (vi) 6,324,538, 11/2001, Wesinger, Jr. et al.; (vii) 6,332,125, 12/2001,

Callen et al.; (viii) 6,363,376, 3/2002, Wiens et al.; (ix) 6,370,510, 4/2002, McGovern et al.; (x) 6,381,592, 4/2002, Reuning; and (xi) 6,385,620, 5/2002, Kurzius et al.

29. After giving full proper credit to the prior art and having conducted a thorough search for all relevant art and having fully considered the most relevant art known at the time, the United States Patent Examiner allowed all of the claims of the '194 Patent to issue. In so doing, it is presumed that Examiner Colby used his or her knowledge of the art when examining the claims. *K/S Himpp v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Colby has experience in the field of the invention, and that the Examiner properly acted in accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002).
30. The '194 Patent is a pioneering patent, and has been cited as relevant prior art in over 250 subsequent United States Patent Applications, including Applications Assigned to such technology leaders as Ricoh, Robert Half International, IBM, Yahoo!, Oracle, Amazon, Monster, and CareerBuilder.
31. The '086 Patent was examined by Primary United States Patent Examiner Jean M. Corrielus. During the examination of the '086 Patent, the United States Patent Examiner searched for prior art in the following US Classifications: 707/104.1, 707/3, 10, 103R, 1, 2, 4, 5, 705/1, 10, 11, and 705/26.
32. After conducting a search for prior art during the examination of the '086 Patent, the United States Patent Examiner identified and cited the following as the most relevant prior art references found during the search: (i) 4,625,081, 11/1986, Lotito et al.; (ii) 5,164,897, 11/1992, Clark et al.; (iii) 5,978,768, 11/1999, McGovern et al.; (iv) 6,370,510, 4/2002, McGovern et al.; (v) 6,381,592, 4/2002, Reuning; (vi) 6,385,620, 5/2002, Kurzius et al.; (vii) 6,567,784, 5/2003,

Bukow; (viii) 6,662,194, 12/2003, Joao; (ix) 6,873,964, 3/2005, Williams et al.; (x) 7,148,991, 12/2006, Suzuki et al.; and (xi) 2003/020531, 6/2003, Parker.

33. After giving full proper credit to the prior art and having conducted a thorough search for all relevant art and having fully considered the most relevant art known at the time, the United States Patent Examiner allowed all of the claims of the '086 Patent to issue. In so doing, it is presumed that Examiner Corrielus used his or her knowledge of the art when examining the claims. *K/S Himpp v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Corrielus has experience in the field of the invention, and that the Examiner properly acted in accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002).
34. The '086 Patent is a pioneering patent, and has been cited as relevant prior art in over 250 subsequent United States Patent Applications, including Applications Assigned to such technology leaders as Xerox, Yahoo!, EDS, Microsoft, CareerBuilder, Monster, LinkedIn, and IBM.
35. The claims of the Asserted Patents were all properly issued, and are valid and enforceable for the respective terms of their statutory life through expiration.

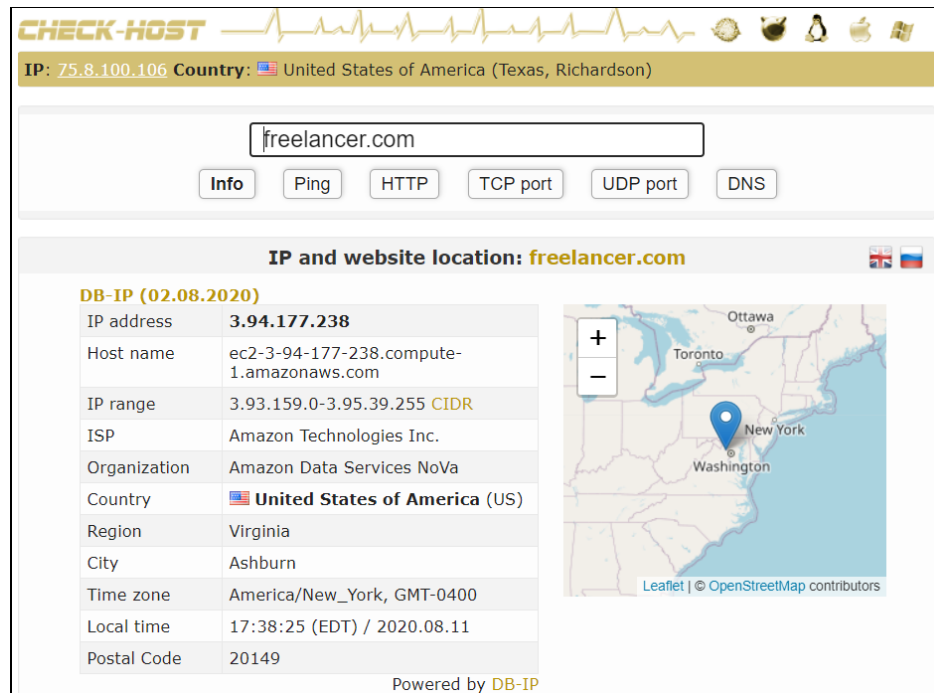
#### **THE ACCUSED INSTRUMENTALITIES**

36. On information and belief, Defendant makes, sells, advertises, offers for sale, uses, or otherwise provides the Freelancer website and its ancillary sites, including its various Mobile Applications, in the United States. The Freelancer apparatus comprises servers, hardware, software, and a collection of related and/or linked web pages and mobile applications for providing job search and/or recruitment services to individuals (including job seekers, contractors, and employers) in the United States. The Freelancer system comprises an apparatus with multiple interconnected

infrastructures that infringe the Asserted Patents. The public-facing aspect of the Freelancer apparatus is the Freelancer website, which is available at [www.freelancer.com](http://www.freelancer.com), together with the associated Freelancer Mobile Applications for Consumers and Contractors, respectively. Collectively, all of the foregoing comprises the “Accused Instrumentalities.”

**COUNT I**  
**Infringement of U.S. Patent No. 6,662,194**

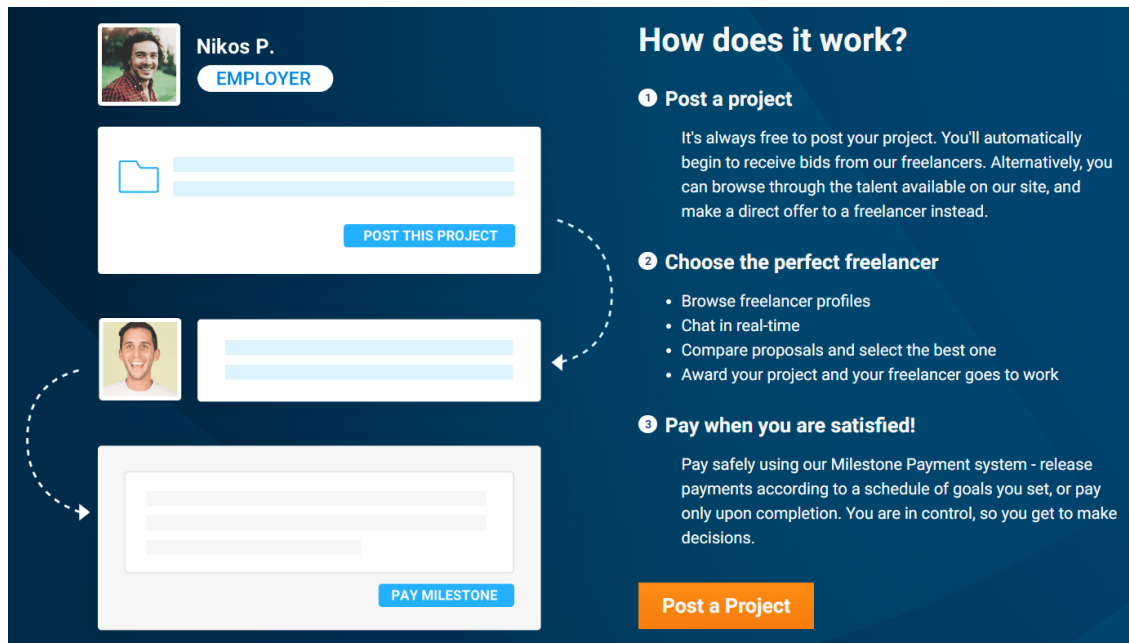
37. Plaintiff incorporates the above paragraphs by reference.
38. Defendant has been on actual notice of the '194 Patent at least as early as the date it received service of this Original Complaint.
39. On information and belief, Defendant owns and controls the operation of the Accused Instrumentalities and generates substantial financial revenues therefrom.
40. On information and belief, Defendant has directly infringed and continues to directly infringe at least Claim 1 of the '194 Patent by making, using, importing, selling, and/or, offering for sale the Accused Instrumentalities.
41. The Accused Instrumentalities comprise an apparatus for providing recruitment information. The infringing apparatus comprises servers, hardware, software, and a collection of related and/or linked web pages and mobile applications for providing recruitment information and services to individuals (including individuals, independent contractors, temporary workers, and/or freelancers) in the United States. On information and belief, the Accused Instrumentalities comprise an apparatus with multiple interconnected infrastructures, including but not limited to multiple data centers, including Amazon Web Services (“AWS”) data centers located across the United States.



See <https://check-host.net/ip-info?host=freelancer.com>, as accessed August 13, 2020.

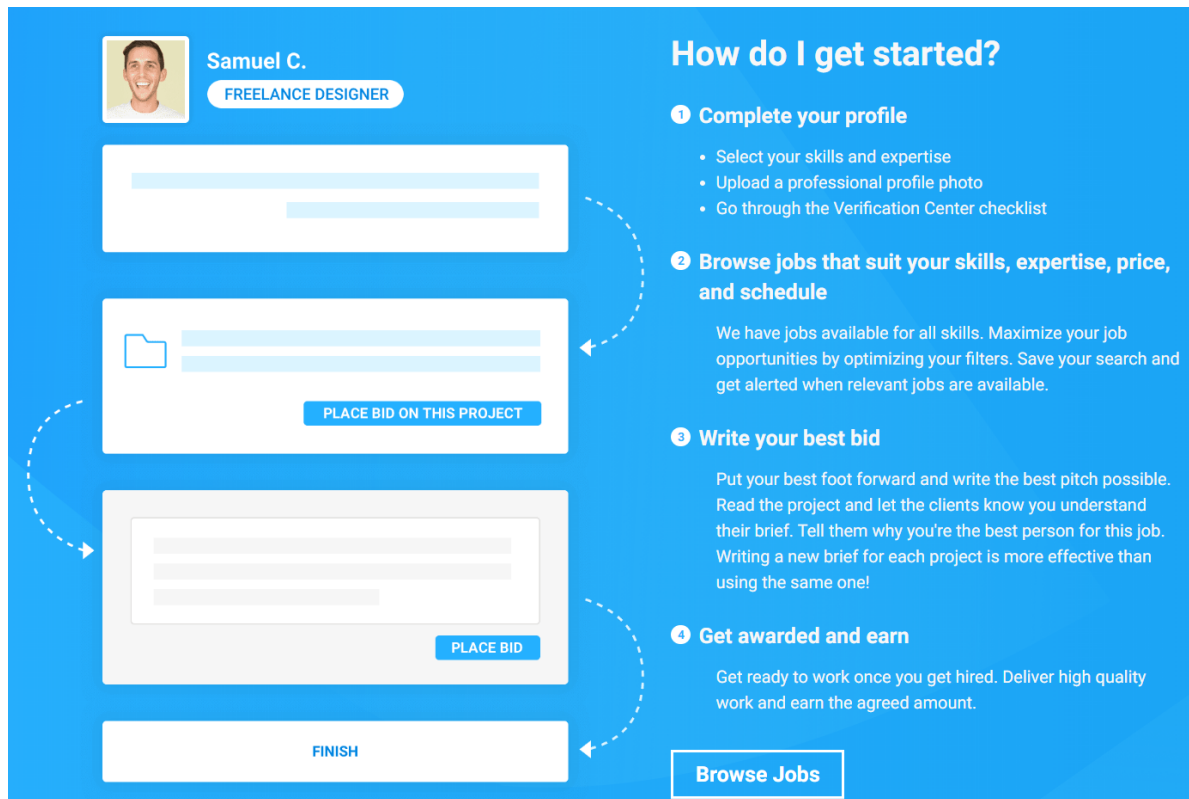
42. On information and belief, the Freelancer Accused Instrumentalities comprises data centers housing servers, memory devices, processing devices, receivers, and transmitters.
43. The Freelancer Accused Instrumentalities comprise a memory device, which stores information regarding at least job openings, positions, assignments, contracts, and/or projects. Such information is collected from users whenever they use the Freelancer apparatus to seek out a contractor or service provider (a “freelancer”). On information and belief, Freelancer refers to such queries collectively as “Project Posting.”





See <https://www.freelancer.com/info/how-it-works/>, as accessed August 13, 2020.

44. Individual users of the Freelancer apparatus submit a Post relating to projects for which they are seeking qualified applicants (contractors and/or service providers), and the Freelancer apparatus uses the input to notify relevant contractors. The contractors have the option of expressing interest in accepting the open employment position or opportunity by preparing a bid for the user to consider.
45. The Freelancer memory device further stores information regarding contractors' individual search requests, which comprise profiles and business contact preferences for contractors and other service providers who make use of the Freelancer apparatus. On information and belief, the search request submitted by each contractor or service provider comprises such information as contact information, location, and service category. By signing up with Freelancer as a contractor or service provider, the contractor or service provider submits a search request for leads to be generated that are pertinent to the contractor's specific skillset.



See <https://www.freelancer.com/info/how-it-works/>, as accessed August 13, 2020.


46. The Freelancer Accused Instrumentalities comprise a processor for processing the aforementioned information upon the occurrence of a searching event, which occurs, for example, when the individual user of the Freelancer apparatus Posts a Project.
47. As noted, the Freelancer apparatus comprises a transmitter, which causes messages concerning the Posted Project to be delivered to the relevant contractors and/or service providers in real-time.

## 2 Browse jobs that suit your skills, expertise, price, and schedule



We have jobs available for all skills. Maximize your job opportunities by optimizing your filters. Save your search and get alerted when relevant jobs are available.

See <https://www.freelancer.com/info/how-it-works/>, as accessed August 13, 2020.

48. Once the user receives the proposals from the contractors/service providers through Freelancer, the user is able to retain the services of the contractor/service provider, and then perform a review of the contractor/service provider on the Freelancer portal. Such reviews are maintained by Freelancer, and are used to rate or grade the contractor/service provider. Users are also able to read the reviews for each contractor/service provider. For example:



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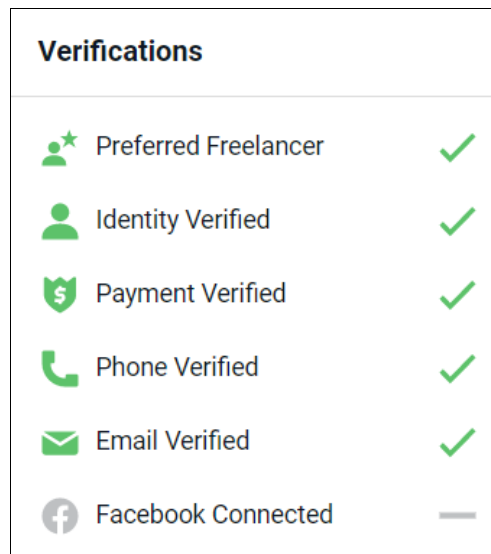
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49. On information and belief, Freelancer also performs independent checks on contractors/service providers, and maintains such information. On information and belief, contractors/service providers who have successful and/or positive checks are tagged by Freelancer as “Verified by Freelancer Staff” and/or “Preferred Freelancer.”



50. The foregoing infringement on the part of Defendant has caused injury to Plaintiff. The amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the '194 Patent.
51. To the extent Defendant continues, and has continued, its infringing activities noted above in an infringing manner post-notice of the '194 Patent, such infringement is necessarily willful and deliberate. Plaintiff believes and contends that Defendant's continuance of its clear and inexcusable infringement of the '194 Patent post-notice is willful, wanton, malicious, bad-faith, deliberate, and/or consciously wrongful.
52. Including because of the foregoing, Plaintiff contends such activities by Defendant qualify this as an egregious case of misconduct beyond typical infringement, entitling Plaintiff to enhanced

damages. Including based on the foregoing, Plaintiff requests an award enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284.

53. Each of Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

**COUNT II**  
**Infringement of U.S. Patent No. 7,490,086**

54. Plaintiff incorporates the above paragraphs by reference.
55. Defendant has been on actual notice of the '086 Patent at least as early as the date it received service of this Original Complaint.
56. On information and belief, Defendant owns and controls the operation of the Accused Instrumentalities and generates substantial financial revenues therefrom.
57. On information and belief, Defendant has directly infringed and continues to directly infringe at least Claim 18 of the '086 Patent by making, using, importing, selling, and/or, offering for sale the Accused Instrumentalities.
58. The Accused Instrumentalities comprise an apparatus for providing recruitment information. The infringing apparatus comprises servers, hardware, software, and a collection of related and/or linked web pages and mobile applications for providing recruitment information and services to individuals (including individuals, independent contractors, temporary workers, and/or freelancers) in the United States. On information and belief, the Accused Instrumentalities comprise an apparatus with multiple interconnected infrastructures, including but not limited to multiple data centers, hosted by its partner Amazon Web Services. *See above.*
59. On information and belief, the Freelancer Accused Instrumentalities comprises data centers housing servers, memory devices, processing devices, receivers, and transmitters.

60. The Freelancer Accused Instrumentalities comprise a memory device, which stores information regarding at individuals available for applying for a job opportunity or hiring need. On information and belief, the Freelancer memory device stores information concerning contractors and service providers who are available and willing to accept assignments within the Freelancer network. Each such contractor/service provider, on information and belief, is employed by the Freelancer end-user as an Independent Contractor to perform specific, defined tasks for the benefit of the end-user. *See above.*
61. The Freelancer Accused Instrumentalities comprise a processing device which automatically detects searching events, which occur when a user of the Freelancer apparatus completes a Project Posting. Each such Project Posting comprises a job posting for Freelancer contractors/service providers, and otherwise comprises an event which creates an interest in an individual (the contractor/service provider) to seek and accept the position. *See above.*
62. The Freelancer Accused Instrumentalities comprise a processing device which generates a message containing information regarding the contractors/service providers to the user in response to the Service Request. Such message includes, *inter alia*, the name and contact information for the relevant contractors/service providers, in the form of the Freelancer Profile, as well as bid information.
63. The foregoing infringement on the part of Defendant has caused injury to Plaintiff. The amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the '086 Patent.
64. To the extent Defendant continues, and has continued, its infringing activities noted above in an infringing manner post-notice of the '086 Patent, such infringement is necessarily willful and

deliberate. Plaintiff believes and contends that Defendant's continuance of its clear and inexcusable infringement of the '086 Patent post-notice is willful, wanton, malicious, bad-faith, deliberate, and/or consciously wrongful.

65. Including because of the foregoing, Plaintiff contends such activities by Defendant qualify this as an egregious case of misconduct beyond typical infringement, entitling Plaintiff to enhanced damages. Including based on the foregoing, Plaintiff requests an award enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284.
66. Each of Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

#### **PRAYER FOR RELIEF**

WHEREFORE, GreatGigz Solutions, LLC respectfully requests the Court enter judgment against Defendant as follows:

1. Declaring that Defendant has infringed each of the Asserted Patents;
2. Awarding GreatGigz Solutions, LLC its damages suffered because of Defendant's infringement of the Asserted Patents;
3. Awarding GreatGigz Solutions, LLC its costs, attorneys' fees, expenses, and interest;
4. Awarding GreatGigz Solutions, LLC ongoing post-trial royalties; and
5. Granting GreatGigz Solutions, LLC such further relief as the Court finds appropriate.

#### **JURY DEMAND**

GreatGigz Solutions, LLC demands trial by jury, under Fed. R. Civ. P. 38.

//

Dated: August 14, 2020

Respectfully Submitted

/s/ Thomas Fasone III

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**ATTORNEYS FOR**

**GREATGIGZ SOLUTIONS, LLC**



UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

GREATGIGZ SOLUTIONS, LLC,

Plaintiff,

v.

FREELANCER LIMITED,

Defendant.

Case No. 6:20-cv-00738-ADA

**JURY TRIAL DEMANDED**

**DEFENDANT FREELANCER LIMITED'S MOTION TO DISMISS FOR  
FAILURE TO STATE A CLAIM**

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## I. INTRODUCTION

Defendant Freelancer Limited (“Defendant” or “Freelancer”) hereby moves this Court to dismiss the entirety of Plaintiff GreatGigz Solutions, LLC’s (“Plaintiff” or “GreatGigz”) Original Complaint for Patent Infringement (“Complaint”) under Fed. R. Civ. Proc. 12(b)(6) for failure to state a claim upon which relief can be granted. The Complaint fails to put Freelancer on proper notice of how its products or services infringe either of the two asserted patents. Instead, the Complaint only provides the barest description of how Freelancer allegedly infringes the asserted patents and merely identifies general components such as “servers, hardware, software, and a collection of related and/or linked web pages and mobile application” as “The Accused Instrumentalities.” Dkt No. 1 (“Complaint”) at ¶36. This generic, non-specific language fails to meet the pleading standard set forth by *Twombly*, *Iqbal*, and the Federal Rules of Civil Procedure. Therefore, Freelancer respectfully moves this Court to dismiss the Complaint under Fed. R. Civ. Proc. 12(b)(6).

## II. STATEMENT OF FACTS

GreatGigz filed this lawsuit against Freelancer on August 14, 2020, alleging infringement of U.S. Patent Nos. 6,662,194 (“the ’194 Patent”) (attached hereto as **Exhibit A**) and 7,490,086 (“the ’086 Patent”) (attached hereto as **Exhibit B**) (hereinafter collectively referred to as “the Asserted Patents”), each in a separate count. *See* Complaint at ¶¶ 14, 37-53 (Count I), 54-66 (Count II).

Count I of GreatGigz’s Complaint alleges that Freelancer directly infringes claim 1 of the ’194 Patent but fails to address a number of claim limitations or plausibly allege how Freelancer could practice them. Complaint at ¶¶ 37–53. The allegations in Count I include screenshots allegedly from Freelancer.com and third-party website checkhost.net, without an explanation of how those screenshots support GreatGigz’s infringement allegations. *See, e.g.*, Complaint at ¶ 47.

Count II suffers from the same infirmities—failing to provide sufficient descriptions of how Freelancer allegedly practices claim 18 of the ’086 Patent. Instead, Count II makes conclusory allegations that some (but not all) of the claim limitations of claim 18 are met and cites generically to “See above” without providing citations to any previous paragraph. Complaint at ¶¶ 54-66.

The Complaint also alleges willful infringement of the '194 and the '086 Patents. *Id.* at ¶¶51, 64. But the Complaint does not allege that Freelancer had knowledge of these patents prior to the filing of this lawsuit, and instead states that Freelancer had knowledge of the '194 and the '086 Patents “at least as early as the date it received service of this Original Complaint.” *Id.* at ¶¶ 38, 55. (Technically, service was waived, so there is no such date, even if prophetic pleading was permitted.)

### III. LEGAL STANDARD

Federal Rule of Civil Procedure 8(a)(2) requires that a complaint contain a “short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citing *Conley v. Gibson*, 355 U.S. 41, 47 (1957)) (internal quotations omitted). While a complaint need not allege detailed factual allegations to survive a Rule 12(b)(6) motion, it is the pleader’s obligation to state the grounds of entitled relief requires “more than labels and conclusions.” *Twombly*, 550 U.S. at 555.

GreatGigz must allege claims that “contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570) (internal quotations omitted). Pleadings that are “no more than conclusions” are “not entitled to the assumption of truth.” *Iqbal*, 556 U.S. at 679 (internal citations omitted). Instead, “[a] claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Bowlby v. City of Aberdeen, Miss.*, 681 F.3d 215, 227 (5th Cir. 2012). Finally, “every element of each cause of action must be supported by specific factual allegations. *Carlton v. Freer Inv. Group.*, Case No. 5:14-CV-946-DAE, 2017 U.S. Dist. LEXIS 223685, at \*23 (W.D. Tex. Aug. 8, 2017) (Ezra, J.). Thus, to plead direct infringement, “[t]he complaint must place the potential infringer on notice of what activity is being accused of infringement.” *Nalco Co. v. Chem-Mod, LLC*, 883 F.3d 1337, 1350 (Fed. Cir. 2018) (internal quotation marks, alterations, and citation omitted). To provide notice, a plaintiff must generally do more than assert that the product infringes the claim; a plaintiff must show how the defendant plausibly infringes by alleging some facts connecting the allegedly infringing product

to the claim elements. *See SIPCO, LLC v. Streetline, Inc.*, 230 F. Supp. 3d 351, 353 (D. Del. 2017) (granting the motion to dismiss because “[t]he complaint contains no attempt to connect anything in the patent claims to anything about any of the accused products”).

As this Court has previously held, a complaint does not meet the required pleading standard where the complaint fails to: (a) identify the actors who practiced each element of the allegedly infringed claim; or to (b) provide any description of how the allegedly infringing products meet all limitations of the allegedly infringed claims. *De La Vega v. Microsoft Corp.*, No. W-19-CV-00612-ADA, 2020 U.S. Dist. LEXIS 116081, at \*16-17 (W.D. Tex. Feb. 11, 2020) (“Because Plaintiff does not include even a short written description of how the accused instrumentalities meet the ‘coupling’ limitation, his complaint fails to state a claim upon which relief can be granted”).

### III. ARGUMENT

Plaintiff’s claims of direct and willful infringement fail to meet the minimum pleading standards recognized by this Court, the Federal Circuit, and the Supreme Court, and thus should be dismissed in their entirety.

#### A. Count I of the Complaint Fails to Plausibly Allege Direct Infringement and Should be Dismissed

GreatGigz alleges in its Complaint that Freelancer infringes apparatus claims.<sup>1</sup> To infringe an apparatus claim, the device must meet all of the structural limitations. *See Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1468 (Fed.Cir.1990) (“[A]pparatus claims cover what a device is, not what a device does.”); *In re Michlin*, 45 C.C.P.A. 1028, 256 F.2d 317, 320 (1958) (“It is well settled that patentability of apparatus claims must depend upon structural limitations and not upon statements of function.”).

GreatGigz accuses Freelancer of infringing “at least Claim 1 of the ’194 Patent.” Complaint at ¶40. GreatGigz premises its infringement allegations on a distributed system of its own imagination — the “Freelancer apparatus” — which requires input from customers, clients, and Freelancer, and which GreatGigz broadly defines to include “servers, hardware, software, and a

---

<sup>1</sup> The Complaint accused Freelancer of allegedly infringing claim 1 of the ’194 Patent (Count I) and claim 18 of the ’086 Patent (Count II).

collection of related and/or linked web pages and Mobile Applications for providing job search and/or recruitment services to individuals (including job seekers, contractors, and employers) in the United States.” Complaint at ¶36. GreatGigz further alleges that the “public-facing aspect of the Freelancer apparatus” includes (1) the “Freelancer website, which is available at [www.freelancer.com](http://www.freelancer.com)”, and (2) the associated Freelancer Mobile Application for Consumers, and (3) the associated Freelancer Mobile Application for Contractors. *Id.* The Complaint summarily combines these devices together as the “Accused Instrumentalities.” *Id.*

This broad allegation alone makes it impossible to decipher specifically who or what is alleged to infringe claim 1 of the ’194 patent. GreatGigz, however, further compounds the issue by introducing alleged third-parties such as “individual users of the Freelancer apparatus” and “contractors and/or service providers” (*see, e.g.*, Complaint at ¶44), but without any ability to explain which actors satisfy each part of the apparatus or Accused Instrumentality.

For example, claim 1 of the ’194 Patent requires a memory device, a processing device, and a transmitter. It requires that these components perform certain specific functions:

1. “a memory device for storing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and information regarding a job search request;”
2. “a processing device for processing information regarding the job search request upon a detection of an occurrence of a searching event, wherein the processing device is programmed to detect the occurrence of the searching event, wherein the processing device utilizes information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, stored in the memory device, and further wherein the processing device generates a message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is responsive to the job search request;” and
3. “a transmitter for transmitting the message to a communication device associated with an individual, wherein the message is transmitted to the communication device in real-time.”

Ex. A. at 41:56-42:11 (Claim 1).

GreatGigz asserts in its Complaint that “[o]n information and belief, the Freelancer Accused Instrumentalities comprise data centers housing servers, memory devices, processing devices, receivers and transmitters”, without providing sufficient support for this allegation. Complaint ¶42.

From there, the Complaint makes its allegations about the Accused Instrumentality using only language from the claim, devoid of factual recitations. Complaint at ¶¶45-47. For the “memory” limitation, GreatGigz offers no support for its allegations that it is present in the Freelancer Accused Instrumentalities. Instead, GreatGigz simply states it is present in the Freelancer Accused Instrumentalities and offers an unlabeled screenshot of the Freelancer.com website. *Id.* at ¶43. The screenshot does not offer any further details or clarification as to where GreatGigz believes the required “memory” is located, if anywhere, within the GreatGigz-concocted Freelancer apparatus. *Id.*

For the “processing device” limitation, GreatGigz simply alleges that this is present in the “Freelancer Accused Instrumentalities”, without any allegations as to where the “processing device” is within the Freelancer apparatus. *Id.* at ¶46.

With respect to the “transmitter” limitation, GreatGigz alleges that “the Freelancer apparatus comprises a transmitter,” but does not offer any support for this assertion. Similar to its allegations regarding the “memory” limitation, GreatGigz simply states that it is present in the Freelancer Accused Instrumentalities and offers an unlabeled screenshot allegedly taken from the Freelancer.com website. *Id.* at ¶47. The screenshot does not offer any details or clarification as to where GreatGigz believes the required “transmitter” is located, if anywhere, within the GreatGigz-concocted Freelancer apparatus. *Id.*

Providing screenshots without further elaboration falls short of the pleading requirements of *Twombly* and *Iqbal*. In fact, this Court recently dismissed **with prejudice** claims made by a plaintiff that “only presented three screenshots of evidence without explaining how that evidence show[ed]” how a defendant infringed an element of a claim. *De La Vega*, 2020 U.S. Dist. Lexis 116081 at \*16-17. For each of the limitations, GreatGigz has done nothing more than “copy[] the language of a claim element, and then baldly stat[e]” that Freelancer’s Accused instrumentalities have such an element. *See Northstar Innovations, Inc. v. Micron Tech., Inc.*, No. 17-506-LPS-CJB, 2017 U.S. Dist Lexis 189624, \*5 (D. Del. Nov. 16, 2017) (stating “There needs to be *some facts* alleged that



articulate *why it is plausible* that the other party’s product infringes that patent claim – not just the patentee asserting, in conclusory fashion, that it is so.”).

District Courts that have analyzed this issue have generally agreed that pleadings that boil down to “[y]our product infringes my patent claim” amount to “little more than a conclusory statement.” *Id.*, *L.M. Sessler Excavating & Wrecking, Inc. v. Bette & Cring, LLC*, Case No. 16-CV-06534-FPG, 2017 U.S. Dist. LEXIS 171708, at \*10-11 (W.D.N.Y. Oct. 17, 2017) (concluding that plaintiff failed to satisfy the pleading standard for its direct infringement claim where, to the extent that plaintiff’s complaint alleged that defendant performed each step of the patent claim at issue, it only did so by “parroting the patent claim and prefacing it with an introductory attribution to [d]efendant” and noting that by “describing [d]efendant’s conduct solely in the words of its own patent, [p]laintiff implicitly concludes that [d]efendant’s process necessarily meets every element of the patent claim—a legal determination, not a factual allegation”); *SIPCO*, 230 F. Supp. 3d at 353 (“Right now, Plaintiff makes two factual allegations. One, here are ten patents we own. Two, you sell some products, which we have identified. Plaintiff makes a legal conclusion, to wit, the sales of your products infringe ou[r] patents. This is insufficient to plausibly allege patent infringement.”).

A plaintiff must “articulate *why it is plausible* that the other party’s product infringes the patent claim.” *Northstar*, 2017 U.S. Dist. LEXIS 189624 at \*5. GreatGigz has not done so. Instead, it merely described Freelancer’s Accused Instrumentalities and the use of those instrumentalities “solely in the words of its own patent,” and thus “implicitly conclude[d] that Defendant’s process necessarily meets every element of the patent claim—a legal determination, not a factual allegation.” *L.M. Sessler*, 2017 U.S. Dist. LEXIS 171708 at \* 10. Because GreatGigz has not provided any description of how the Freelancer Accused Instrumentalities allegedly meets any of the limitations found in claim 1 of the ’195 patent, Count I should be dismissed for failure to state a claim upon which relief can be granted.

**B. Count II of the Complaint Fails to Plausibly Allege Direct Infringement and Should Be Dismissed**

Plaintiff's allegation in Count II is also deficient and should be dismissed for the same reasons discussed above in reference to Count I. In fact, Count II is pled with fewer allegations than Count I.

In Count II, GreatGigz alleges that Freelancer directly infringes claim 18 of the '086 patent. Complaint at ¶57. Similar to Claim 1 of the '194 patent, Claim 18 of the '086 patent also requires "a memory device", "a processing device" and "a transmitter". *See*, Ex. B. at 44:5-36 (claim 18). Plaintiff's allegations in Count II omit any reference to the already unexplained screenshots used to support the allegations in Count I. Complaint at ¶¶54-62. In lieu of the screenshots, Count II repeatedly instructs Freelancer to "see above" without reference to claim elements or paragraph numbers. For the same reasons as set forth above with respect to Count I, Count II is also fails to state a claim upon which relief should be granted and should also be dismissed.

In addition to the deficiencies shared with Count I, Count II provides a separate basis for dismissal as Count II fails to address all the claim limitations found in Claim 18 of the '086 patent.

Count II alleges direct infringement of claim 18 of the '086 patent. Complaint at ¶57. Claim 18 requires "a memory device", "a processing device" and "a transmitter." *See*, Ex. B. at 44:5-36 (claim 18). In Count II, however, GreatGigz does not make even cursory allegations that the "transmitter" limitation is found in the Freelancer Accused Instrumentalities. *See*, Complaint at ¶¶54-66. Therefore, because Count II of the Complaint fails to support every element of claim 18 of the '086 patent, the allegations contained within Count II must be dismissed. *See Carlton*, 2017 U.S. Dist. LEXIS 223685 at \*23-26.

**C. Plaintiff's Allegations of Willful Infringement are Deficient and Should be Dismissed**

**1. The Complaint's allegations of pre-suit willfulness should be dismissed**

To the extent GreatGigz alleges pre-suit willful infringement, such allegations should be dismissed because Plaintiff's allegation failed to plead pre-suit knowledge of any of the Asserted Patents.

The Complaint does not allege that Freelancer knew about any of the Asserted Patents before the filing of this lawsuit. *See* Complaint at ¶¶ 38, 55. This Court explained the appropriate standard to adequately plead a claim of willful infringement in *Parity Networks*:

To state a claim for willful infringement a plaintiff must allege facts plausibly showing that *as of the time of the claim's filing*, the accused infringer: (1) knew of the patent-in-suit; (2) after acquiring that knowledge, it infringed the patent; and (3) in doing so, it knew, or should have known, that its conduct amounted to infringement of the patent. Further, a plaintiff should plead willfulness with sufficient articulation of the relevant fact.

*Parity Networks, LLC v. Cisco Sys., Inc.*, No. 6:19-cv-00207-ADA, 2019 U.S. Dist. LEXIS 144094, at \*7 (W.D. Tex. July 26, 2019) (Albright, J.) (emphasis added) (*quoting Valinge Innovation AB v. Halstead New England Corp.*, No. 16-1082-LPS-CJB, 2018 U.S. Dist. LEXIS 88696, 2018 WL 2411218, at \*13 (D. Del. May 29, 2018)). In contrast to the complaint in *Parity Networks*, which “adequately allege[d] that Defendant had knowledge of infringement prior to the filing of the complaint,” GreatGigz concedes the absence of facts to show such pre-suit knowledge by alleging only that Freelancer “has been on actual notice of the [’194 Patent and the ’086 Patent] at least as early as the date it received service of this Original Complaint.” Complaint at ¶¶ 38, 55. Even if it this allegation was sufficient (which it is not), it can’t be correct, because Freelancer waived service and was never served.

Because GreatGigz did not allege that Defendant “knew of” the ’194 and ’086 Patents *prior* to the filing of the lawsuit, Plaintiff failed to allege at least one of the requisite components of willful infringement. *Parity Networks*, 2019 U.S. Dist. LEXIS 144094 at \*7 (“a plaintiff must allege facts plausibly showing that *as of the time of the claim's filing*, the accused infringer ... knew of the patent-in-suit”) (emphasis added); *Valinge*, 2018 U.S. Dist. LEXIS 88696 at \*35-36 (granting defendants’ motion to dismiss allegations of willful infringement where plaintiff did not plausibly allege that defendants had knowledge of that patents as of the date of the filing of the original complaint). Plaintiff’s allegations of willful infringement should therefore be dismissed.

## 2. The allegations of post-filing willfulness should be dismissed

Plaintiff’s allegations also do not meet the standard for supporting a claim for willfulness based on post-filing conduct. This Court and others have dismissed claims for enhanced damages

where the complaint alleges nothing more than a garden-variety patent case, as GreatGigz has done. *See Flash-Control, LLC v. Intel Corp.*, C.A. No. 1:19-cv-1107-ADA, No. 35 at p. 16 (W.D. Tex. Oct. 31, 2019) (dismissing without prejudice allegations regarding post-suit willfulness and citing to its decision in *Parity Networks* as the standard for sufficient allegations); *VLSI Tech. LLC v. Intel Corp.*, C.A. No. 6:19-cv-00254-ADA, No. 52 (W.D. Tex. Aug. 6, 2019) (dismissing without prejudice an enhanced damages claim based on willful infringement); *Meetrix IP, LLC v. Cisco Sys., Inc.*, No. 1-18-CV-309-LY, 2018 U.S. Dist. LEXIS 225719, at \*8 (W.D. Tex. Nov. 30, 2018) (dismissing willful infringement claim and agreeing that “the complaint does not allege any facts raising a plausible inference of the egregious behavior required under Halo”); *see also M & C Innovations, LLC v. Igloo Prod. Corp.*, No. 4:17-CV-2372, 2018 U.S. Dist. LEXIS 152075, at \*14-15 (S.D. Tex. July 31, 2018) (dismissing willful infringement claim as the patent claims were “garden-variety”).

As discussed above, Plaintiff’s only allegation of Freelancer’s actual knowledge of the patent is by way of the Complaint. Plaintiff’s remaining willfulness allegations are simply that Freelancer, without any additional explanation, continues to willfully infringe:

51. To the extent Defendant continues, and has continued, its infringing activities noted above in an infringing manner post-notice of the ’194 Patent, such infringement is necessarily willful and deliberate. Plaintiff believes and contends that Defendant’s continuance of its clear and inexcusable infringement of the ’194 Patent post-notice is willful, wanton, malicious, bad-faith, deliberate, and/or consciously wrongful.

...

64. To the extent Defendant continues, and has continued, its infringing activities noted above in an infringing manner post-notice of the ’086 Patent, such infringement is necessarily willful and deliberate. Plaintiff believes and contends that Defendant’s continuance of its clear and inexcusable infringement of the ’086 Patent post-notice is willful, wanton, malicious, bad-faith, deliberate, and/or consciously wrongful.

Complaint at ¶¶ 51, 64.

The Complaint alleges no facts to support a plausible inference that Freelancer knew or should have known that it was purportedly infringing the ’194 Patent or the ’086 Patent. Nor does Complaint identify any specific “willful, wanton, malicious, bad-faith, deliberate, and/or consciously wrongful” act on the part of Freelancer. In short, the Complaint fails to provide any factual support

or reasoning for Plaintiff's bald allegations of willful infringement, much less "with sufficient articulation of the relevant facts." *See Parity Networks*, 2019 U.S. Dist. LEXIS 144094 at \*7-8.

Because the Complaint fails to plead sufficient factual support for its allegations of willful infringement, Plaintiff's willful infringement allegations are necessarily insufficient and should be dismissed.

#### IV. CONCLUSION

For the foregoing reasons, Freelancer respectfully requests that the Court grant its motion and dismiss GreatGigz's Complaint in its entirety for failure to plausibly state a claim for relief.

Respectfully submitted,

Dated: November 9, 2020

By: /s/ Andrew T. Oliver  
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Freelancer Limited*

#### **CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record who have consented to electronic service.

/s/ Andrew T. Oliver  
Andrew T. Oliver

# EXHIBIT A



US006662194B1

(12) **United States Patent**  
**Joao**

(10) **Patent No.:** **US 6,662,194 B1**  
(45) **Date of Patent:** **Dec. 9, 2003**

(54) **APPARATUS AND METHOD FOR PROVIDING RECRUITMENT INFORMATION**

(76) Inventor: **Raymond Anthony Joao**, 122 Bellevue Pl., Yonkers, NY (US) 10703

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 387 days.

(21) Appl. No.: **09/612,528**

(22) Filed: **Jul. 7, 2000**

**Related U.S. Application Data**

(60) Provisional application No. 60/146,776, filed on Jul. 31, 1999.

(51) **Int. Cl.<sup>7</sup>** ..... **G06F 7/00**

(52) **U.S. Cl.** ..... **707/104.1**; 707/3; 707/10; 707/103 R; 705/1; 705/10; 705/11; 705/26

(58) **Field of Search** ..... 705/1, 10, 11, 705/26; 707/104.1, 10, 3, 103 R

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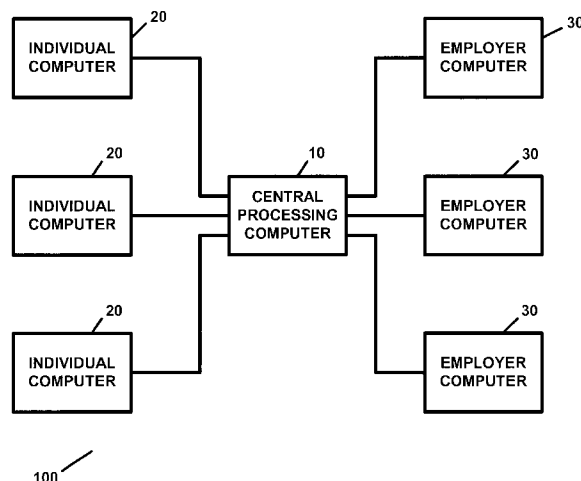
*Primary Examiner*—Frantz Coby

(74) *Attorney, Agent, or Firm*—Raymond A. Joao, Esq.

(57) **ABSTRACT**

An apparatus and method for providing recruitment information, including a memory device for storing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and information regarding a job search request, a processing device for processing information regarding the job search request upon a detection of an occurrence of a searching event, wherein the processing device utilizes information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, stored in the memory device, and further wherein the processing device generates a message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is responsive to the job search request, and a transmitter for transmitting the message to a communication device associated with an individual in real-time.

**58 Claims, 16 Drawing Sheets**



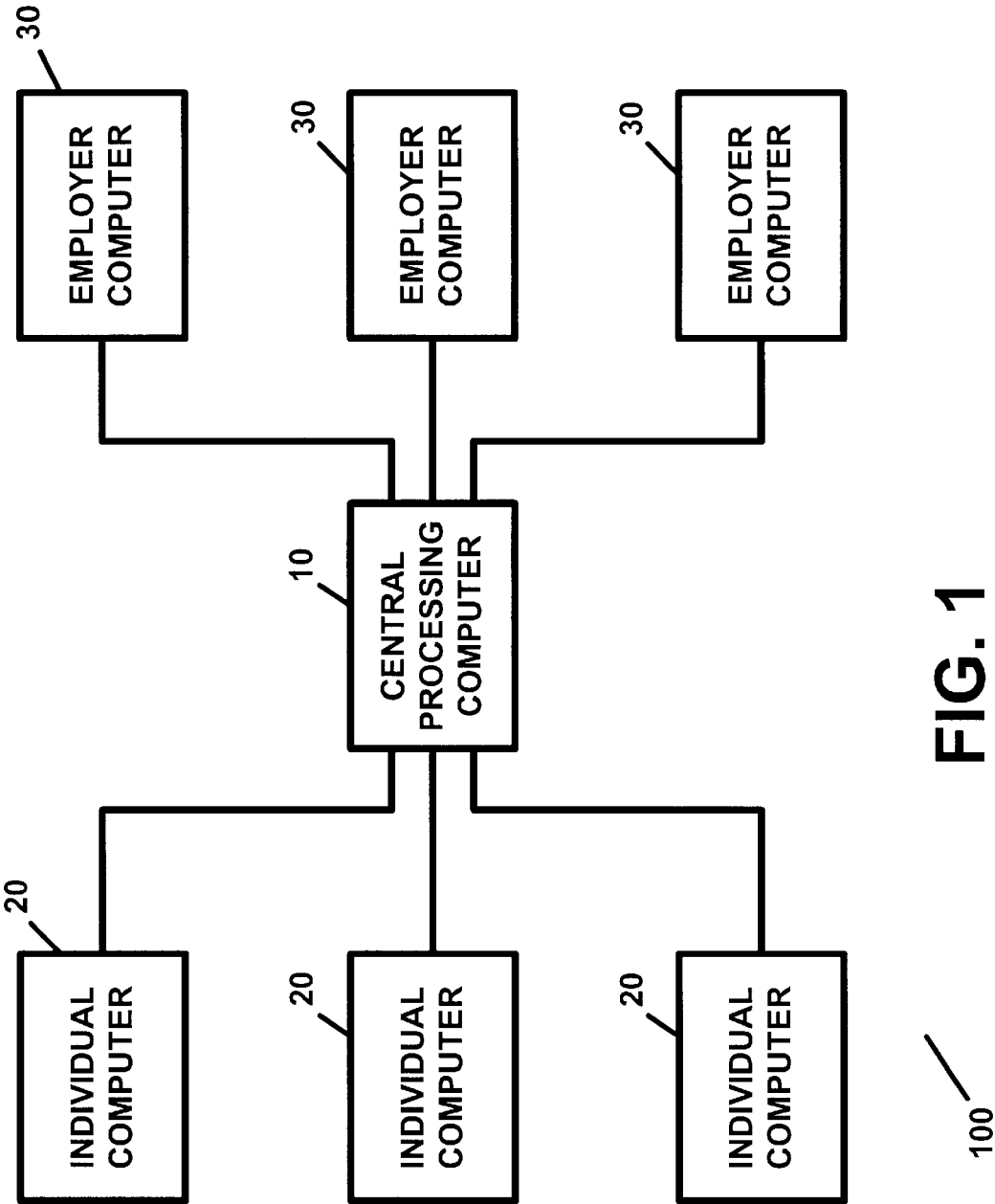
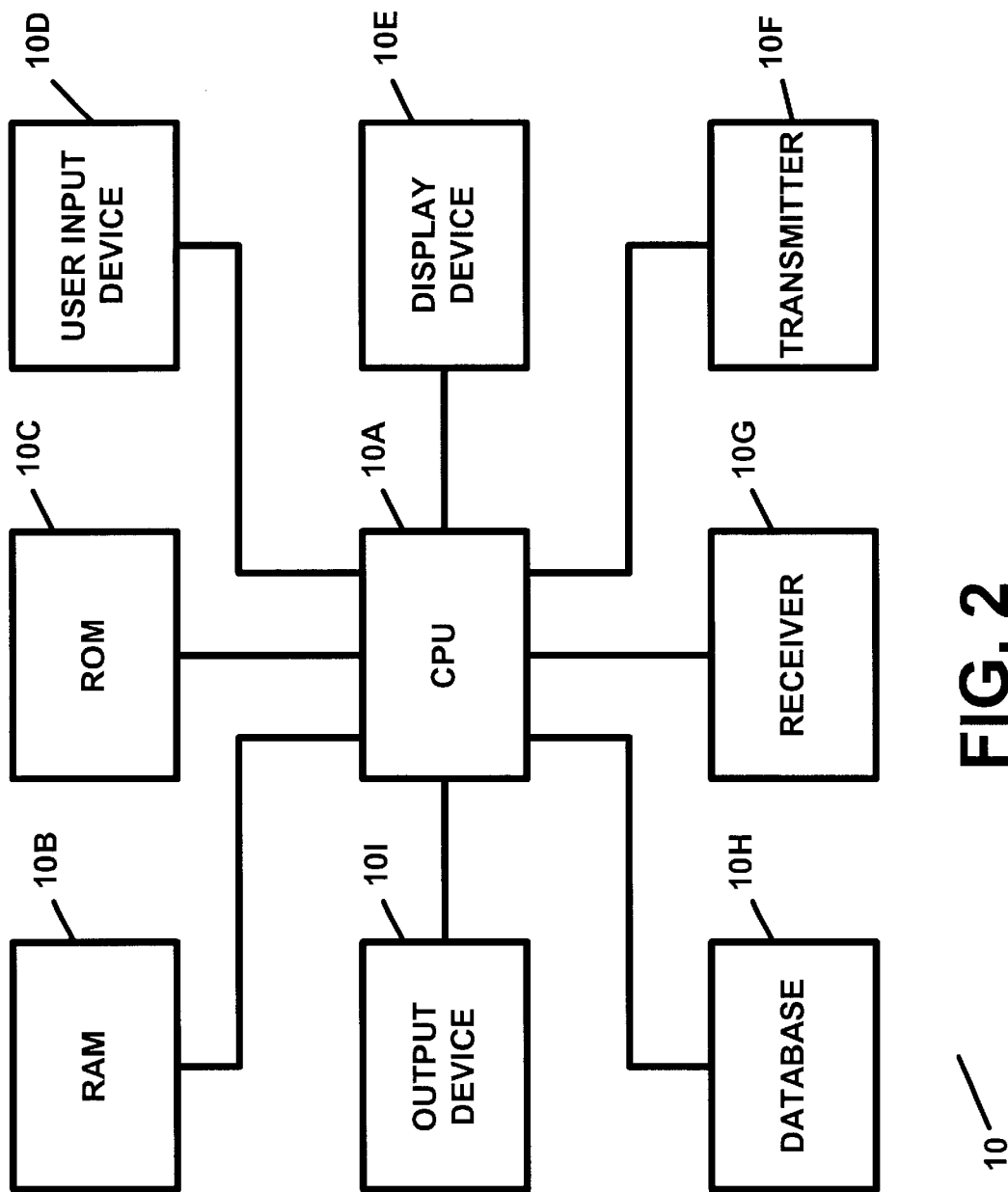


FIG. 1





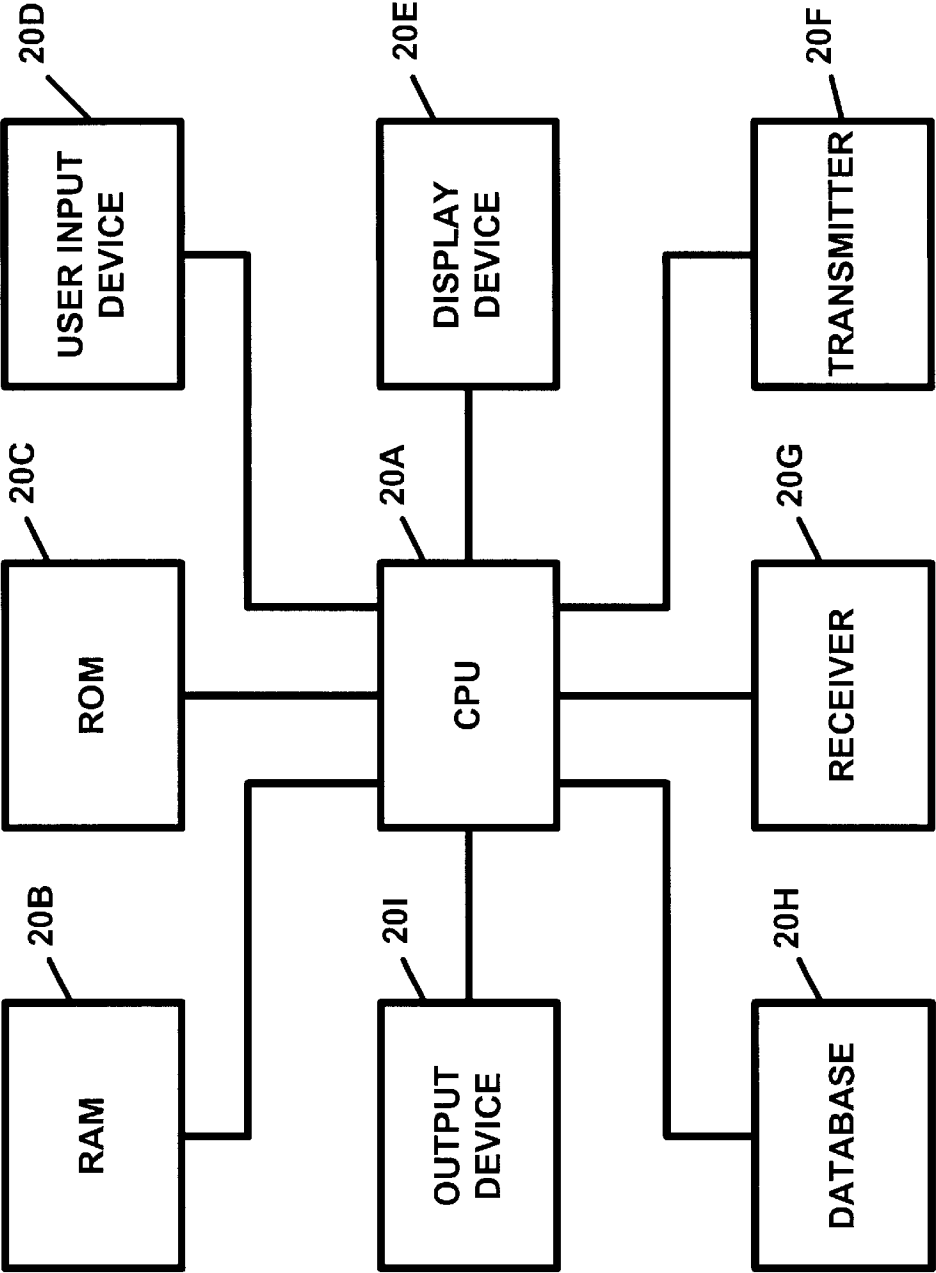


FIG. 3

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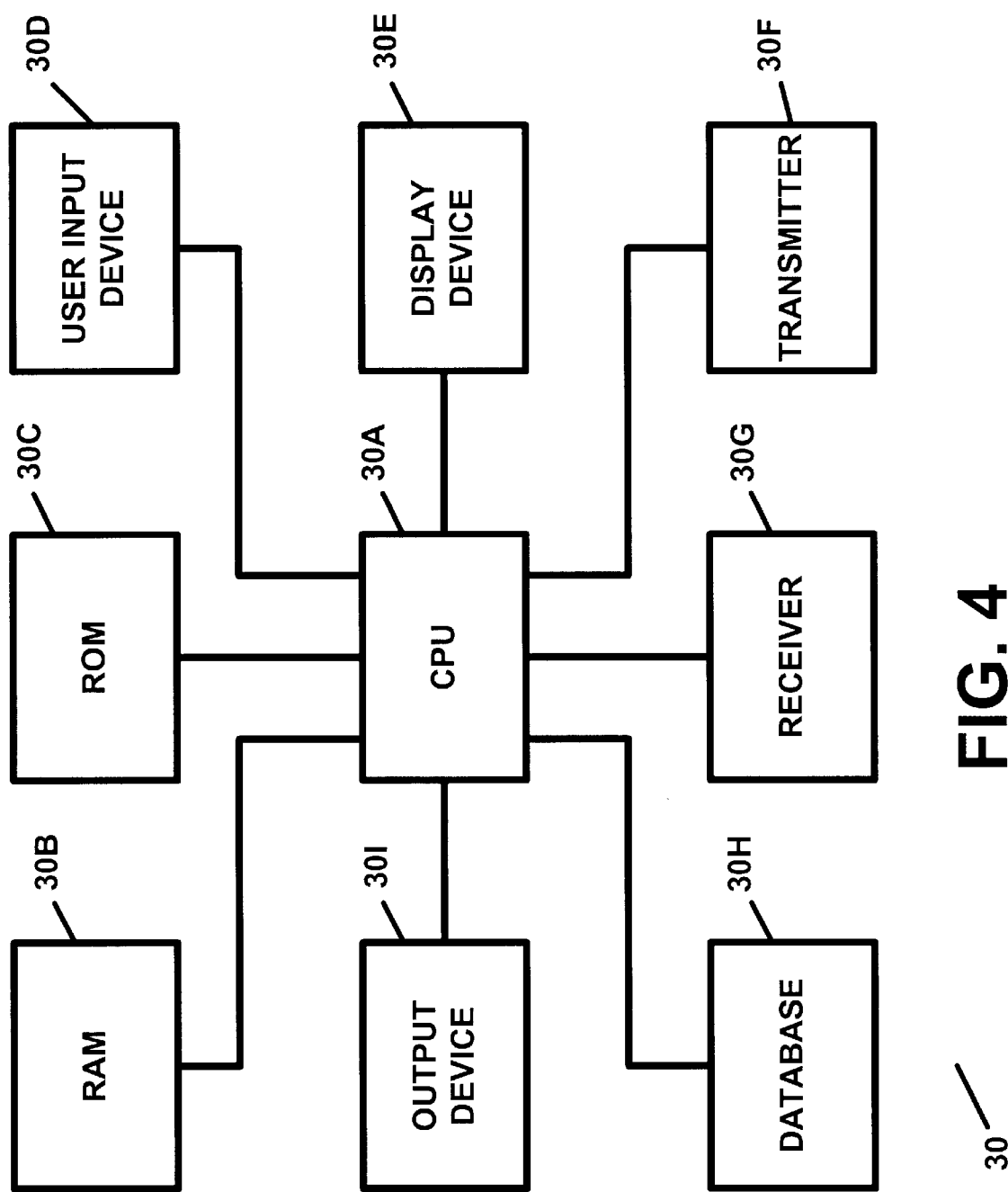
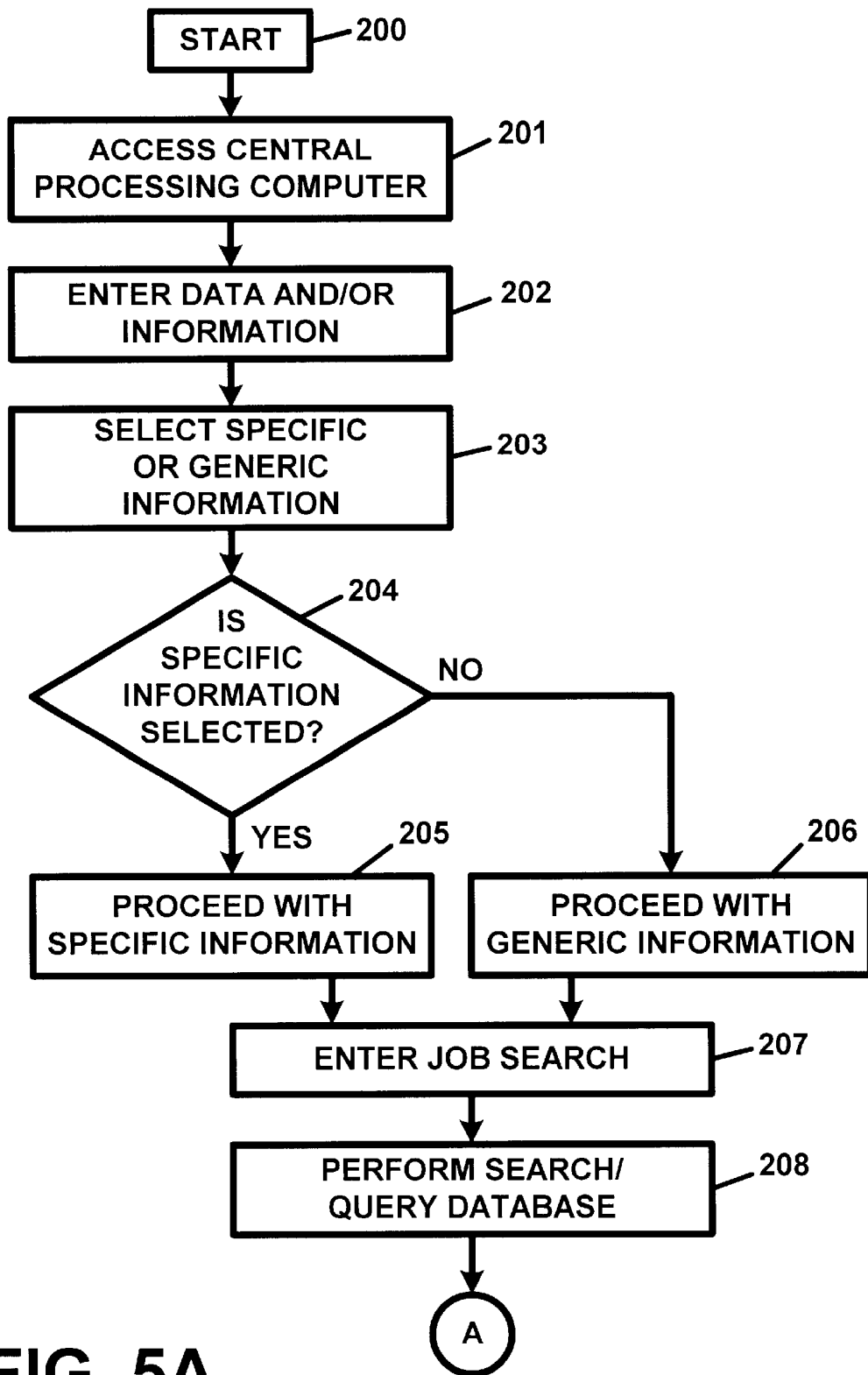
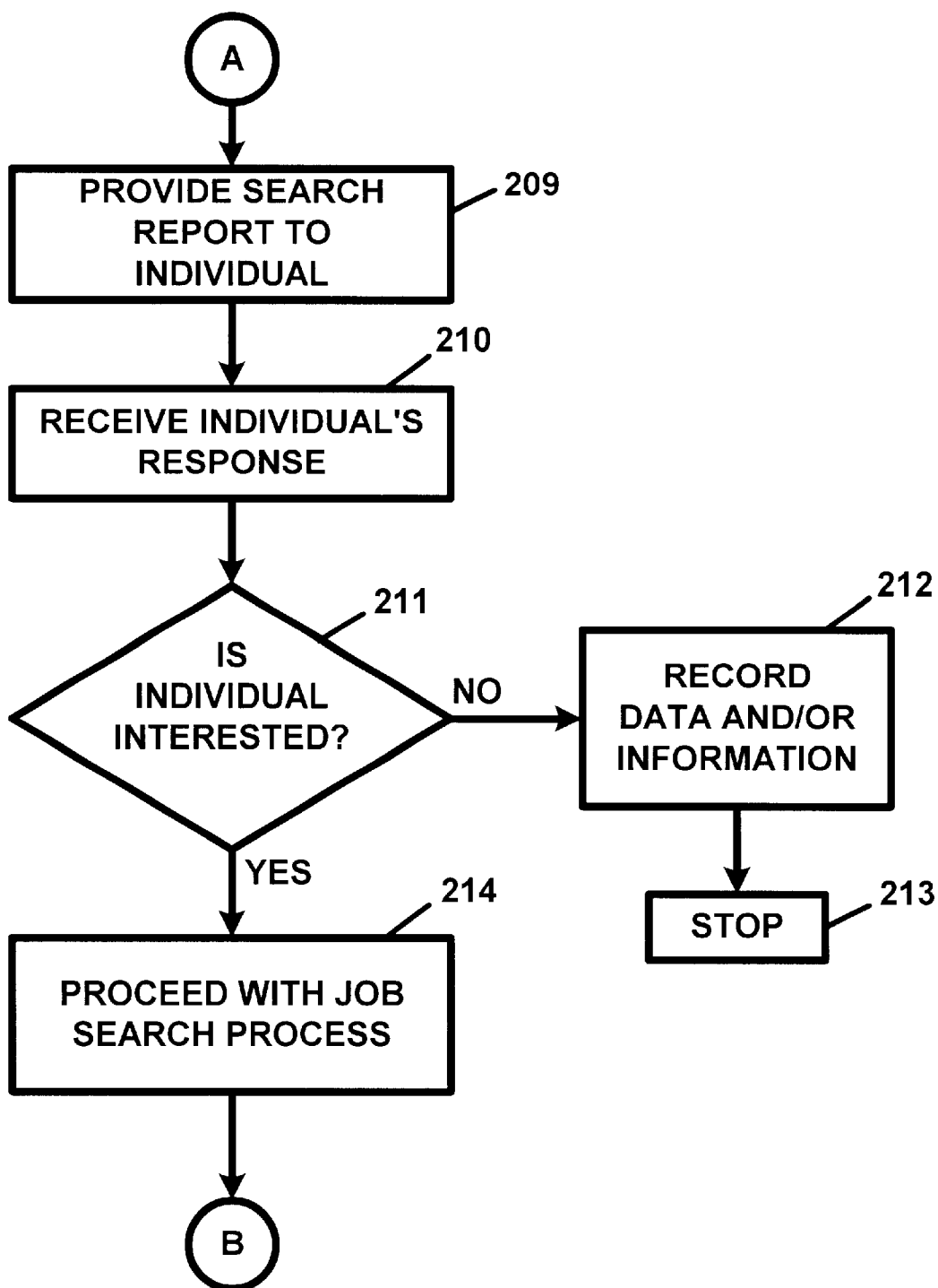


FIG. 4

**FIG. 5A**

**FIG. 5B**

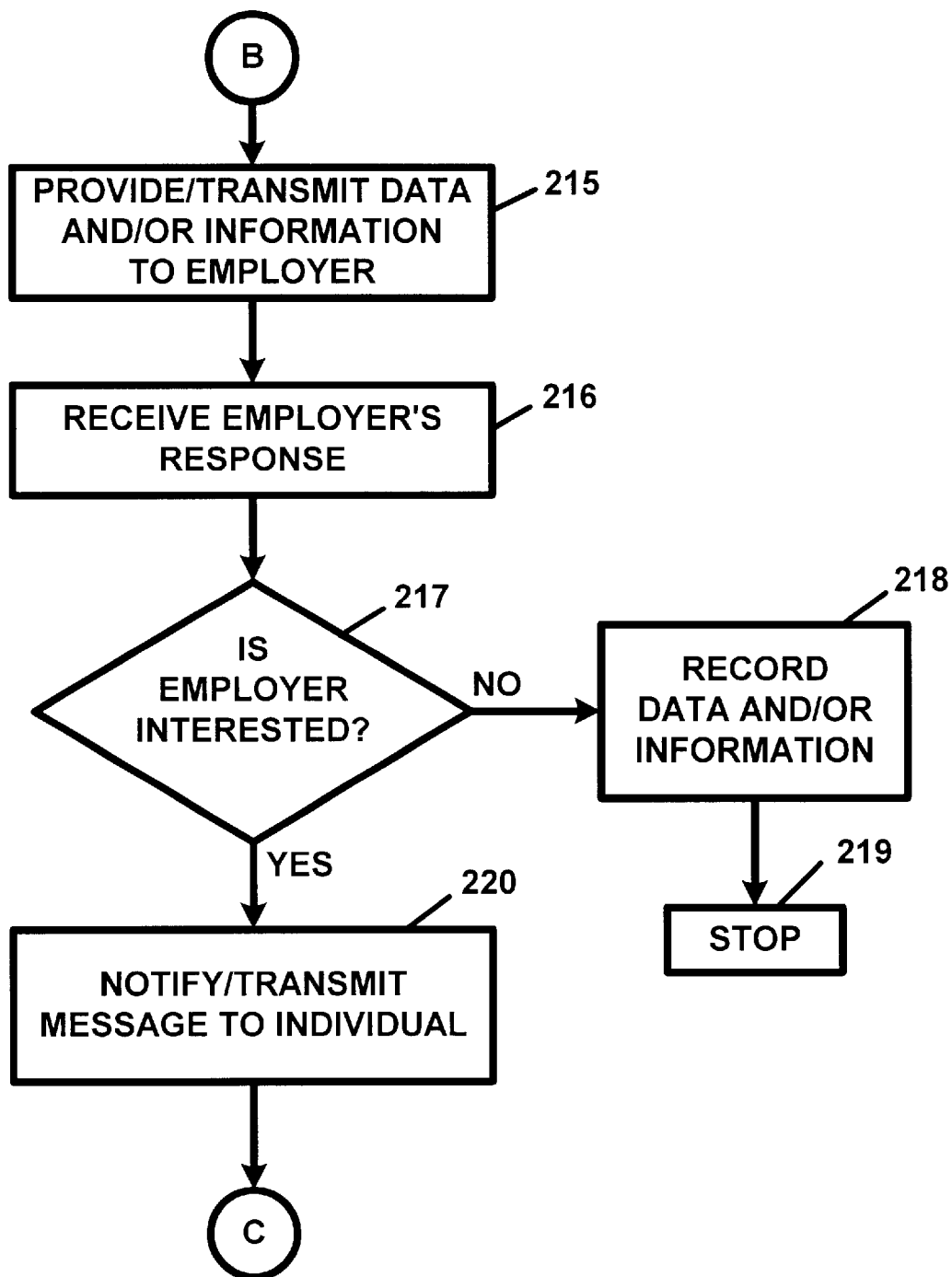


FIG. 5C

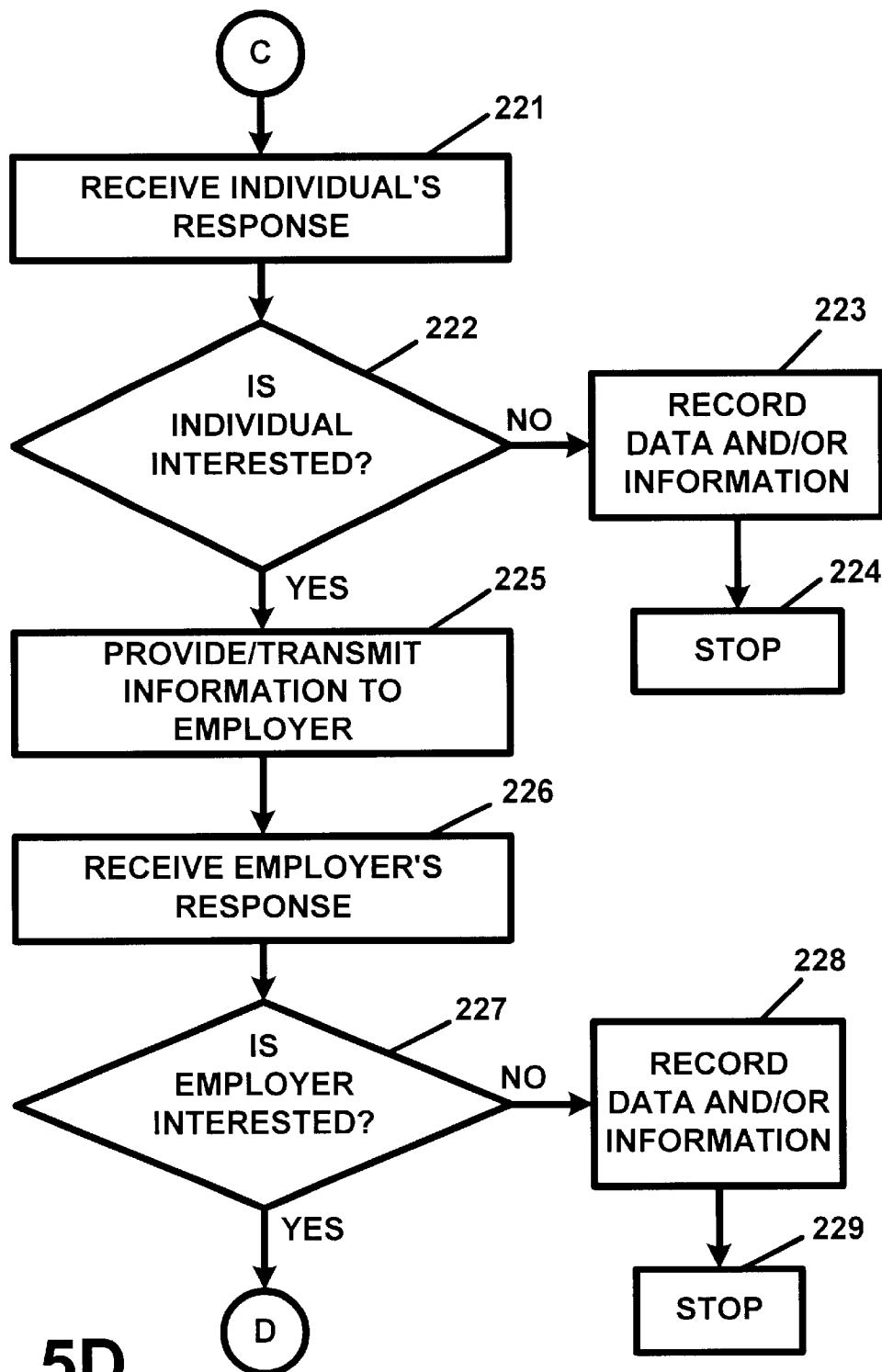
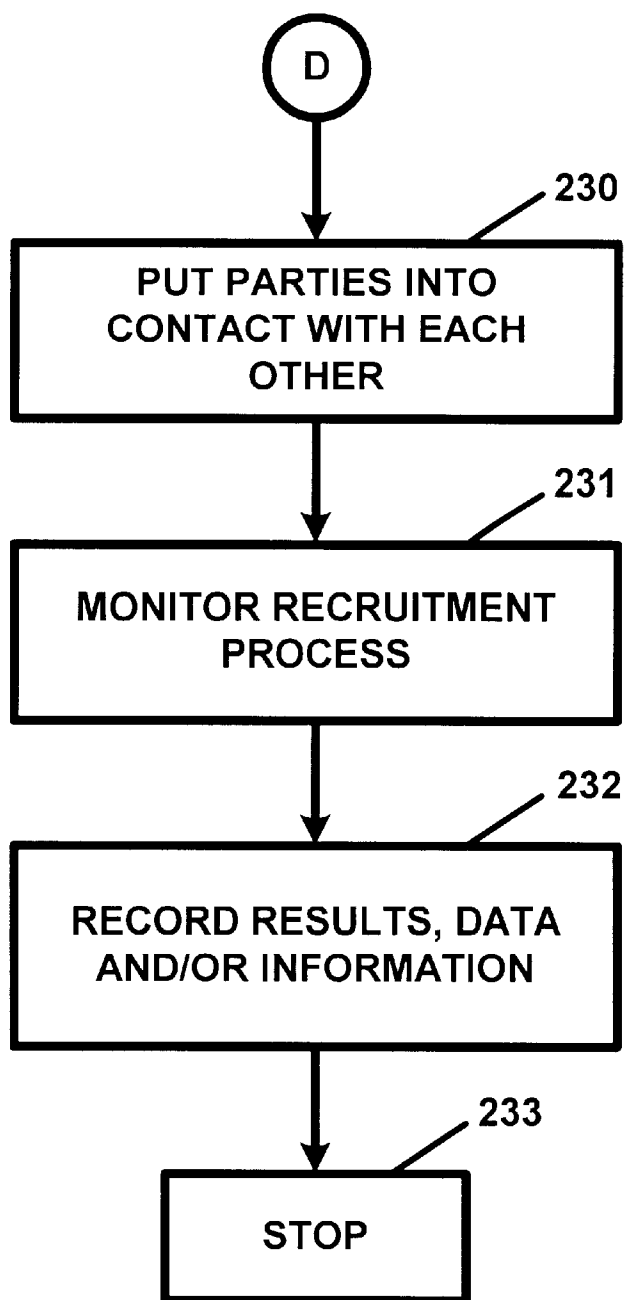


FIG. 5D



**FIG. 5E**



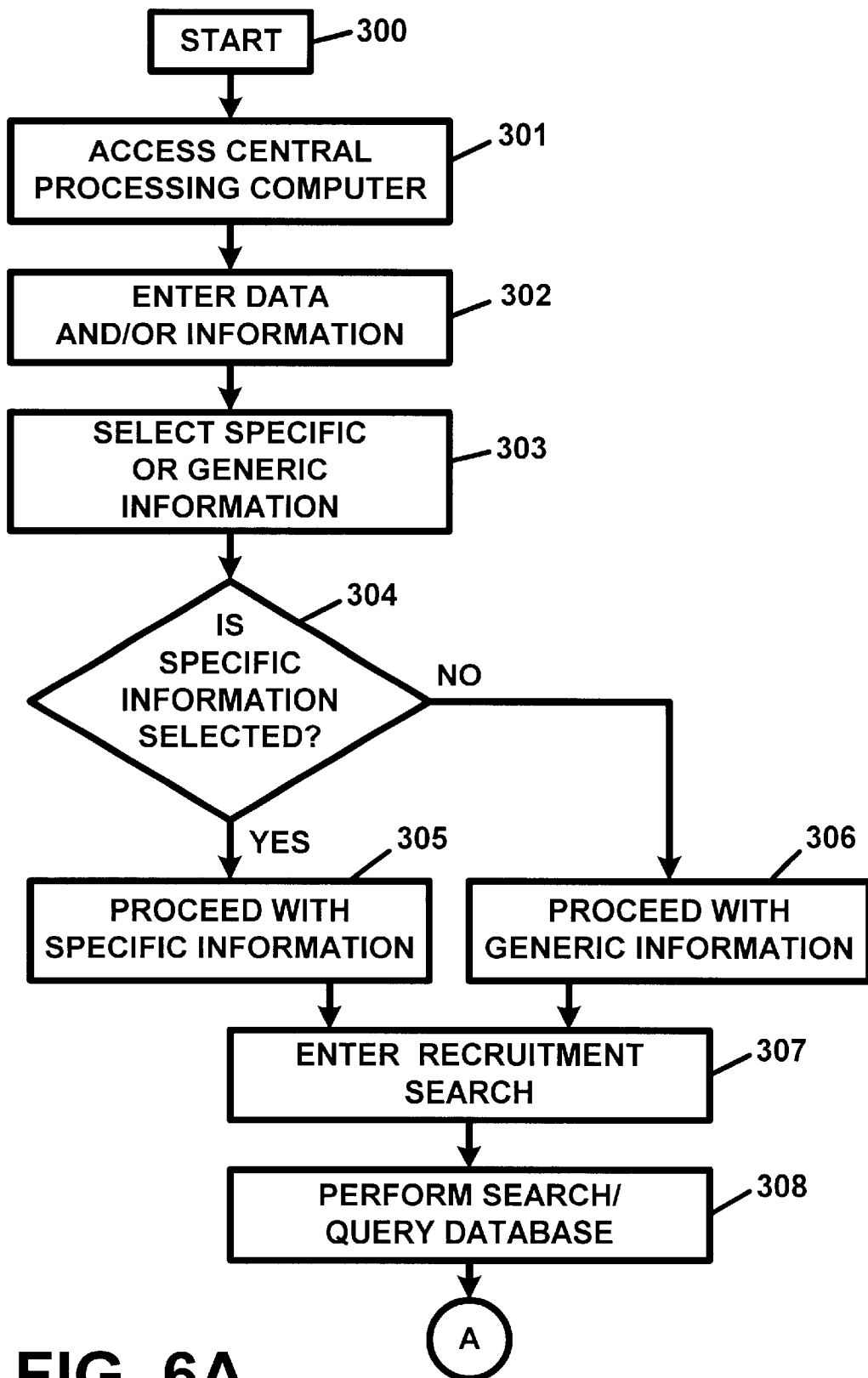


FIG. 6A

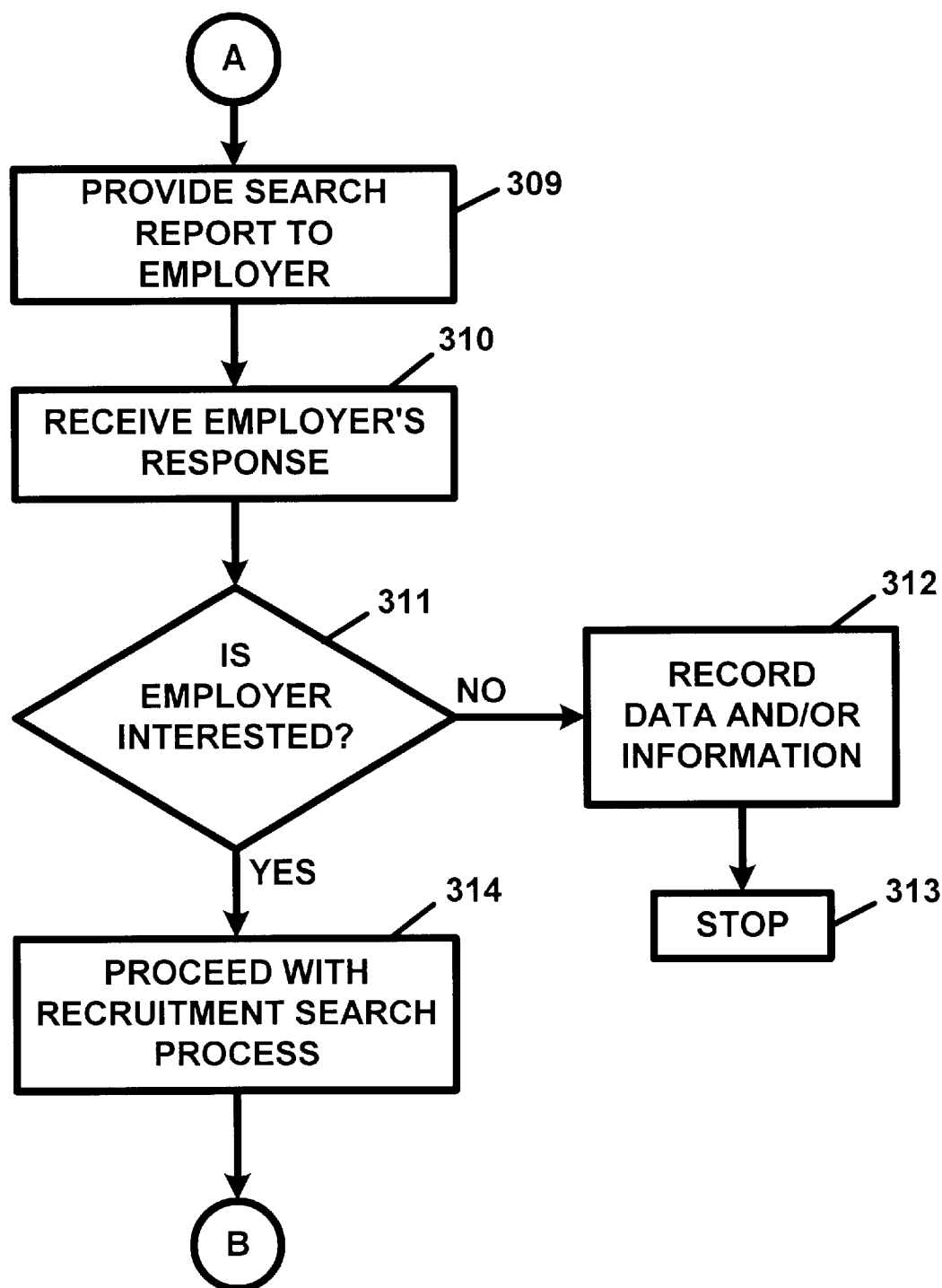


FIG. 6B

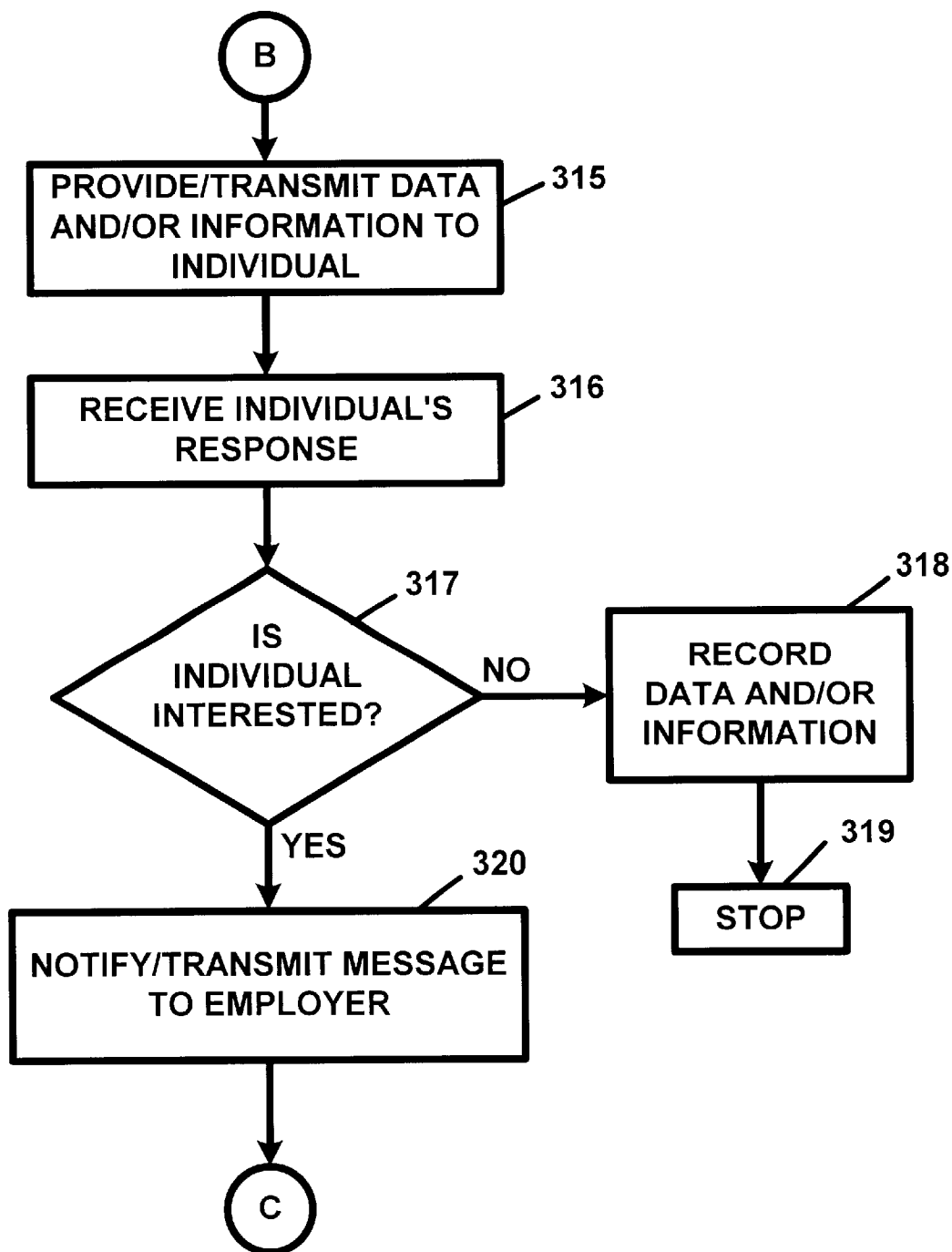


FIG. 6C

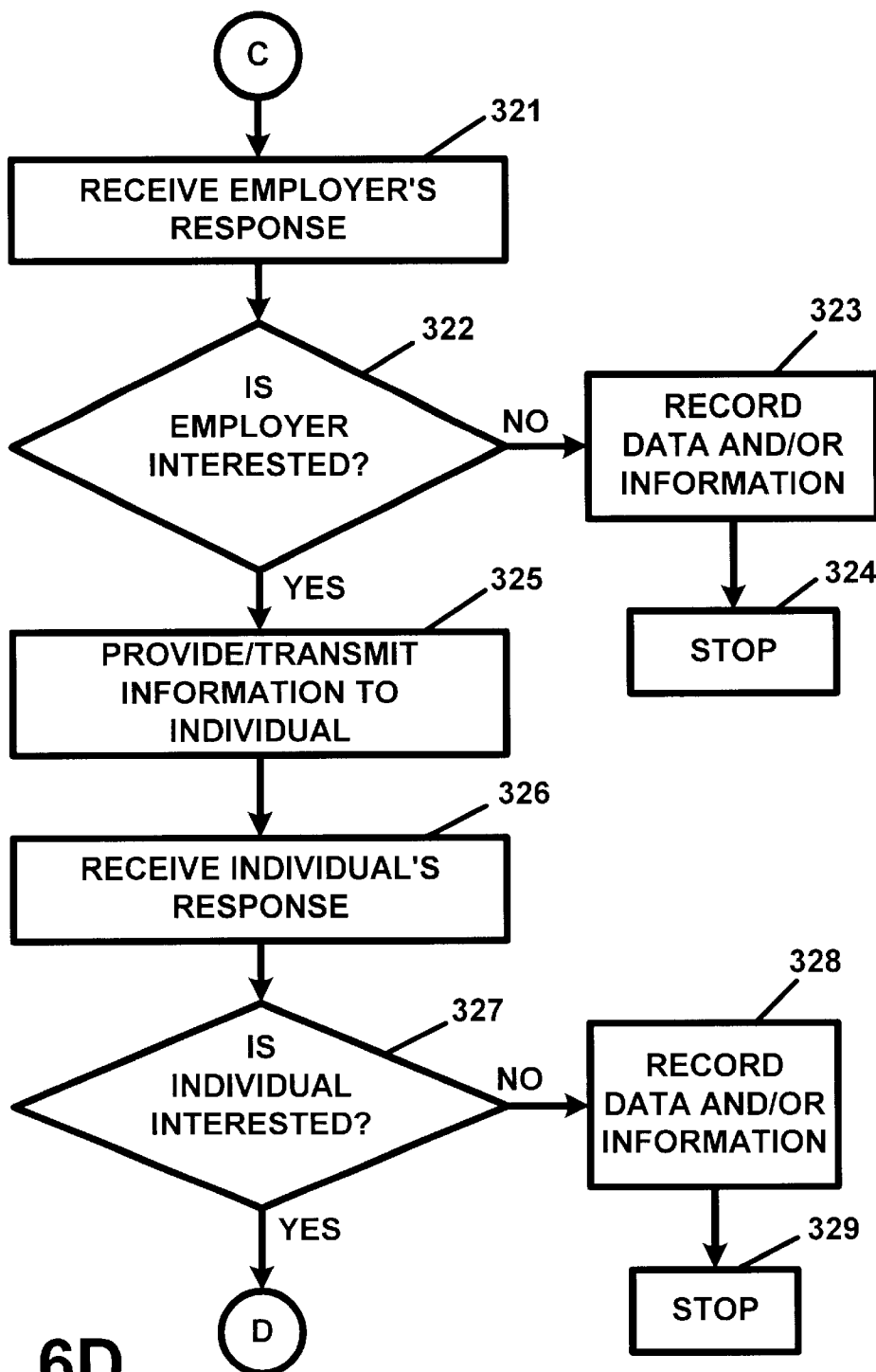
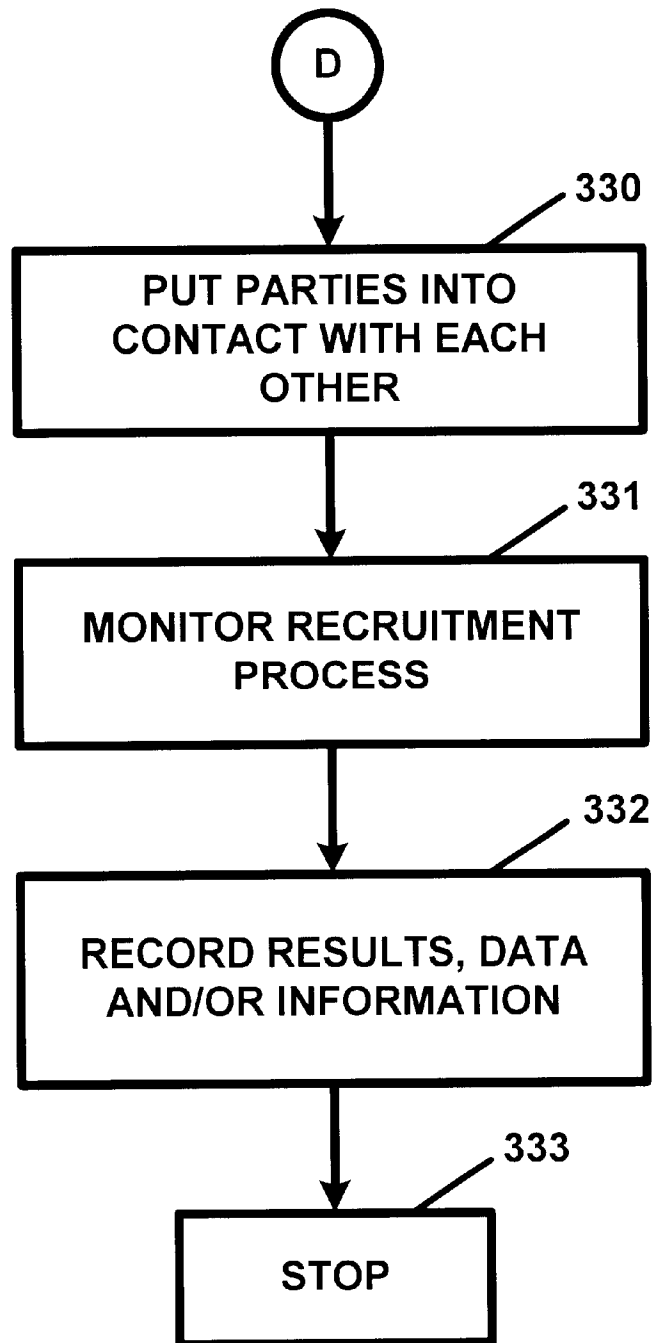
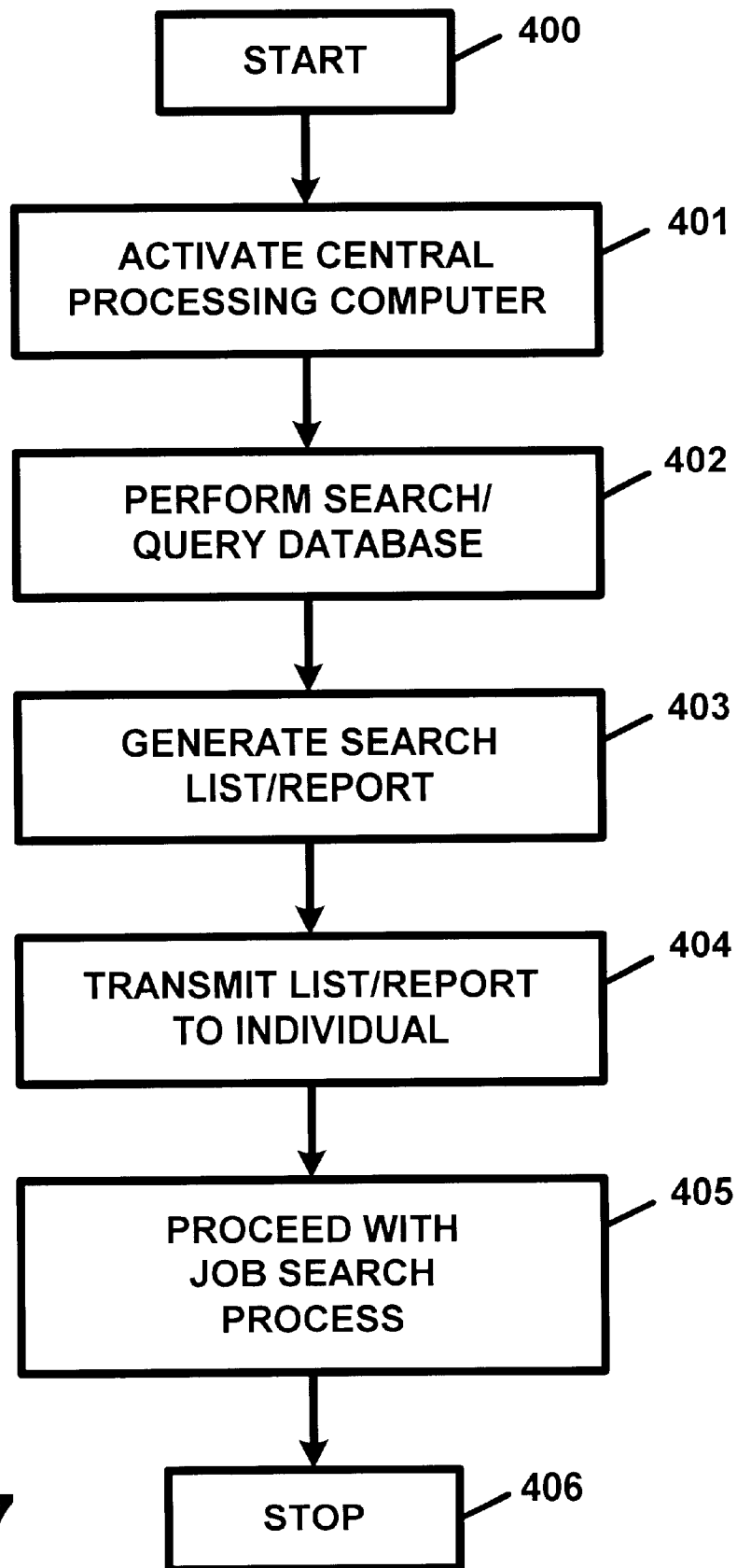
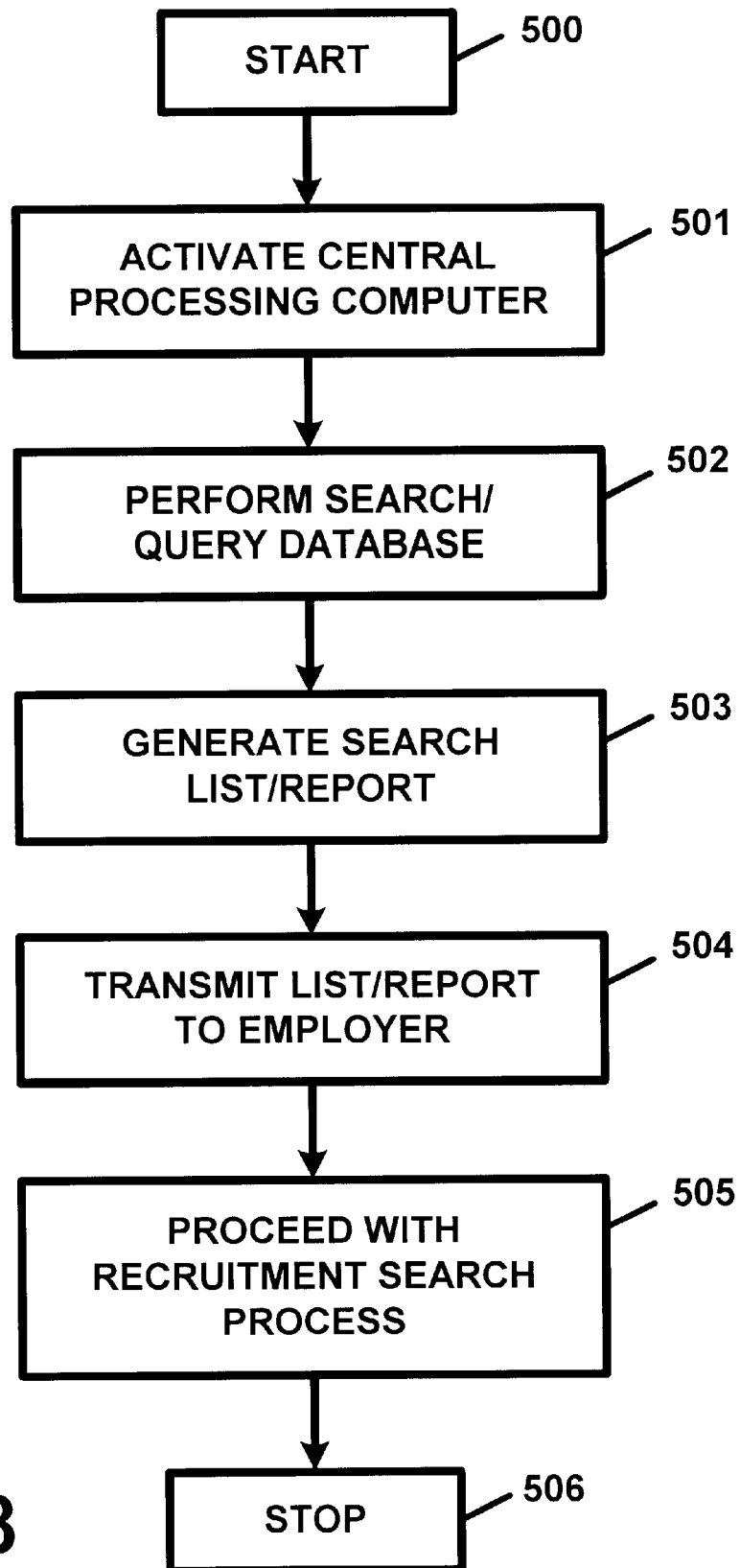


FIG. 6D



**FIG. 6E**

**FIG. 7**



**FIG. 8**

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## APPARATUS AND METHOD FOR PROVIDING RECRUITMENT INFORMATION

### RELATED APPLICATIONS

This application claims the benefit of priority of U.S. Provisional Patent Application Serial No. 60/146,776, filed Jul. 31, 1999, and entitled "APPARATUS AND METHOD FOR PROVIDING JOB SEARCHING SERVICES, RECRUITMENT SERVICES AND/OR RECRUITMENT-RELATED SERVICES", the subject matter of which is hereby incorporated by reference herein.

### FIELD OF THE INVENTION

The present invention is directed to an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services and, in particular, to an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services as they may relate to individuals, independent contractors, freelancers, employers and/or hiring entities, in a network environment.

### BACKGROUND OF THE INVENTION

Individuals, independent contractors, and/or freelancers, can expend great efforts and a great deal of time in job searching efforts. Individuals, independent contractors, and/or freelancers, typically place a great deal of importance on their job searching efforts, on efforts directed to securing employment, both permanently and/or temporarily as a temporary employee and/or "contract" employee, and/or on efforts directed to obtaining and/or securing projects and/or assignments.

Employers and/or hiring entities require that they have a satisfactory workforce in order to meet the demands of doing business. In this regard, employers and/or hiring entities very often need to find and/or recruit new employees, replace former employees, find employees with new skills to meet their business needs, and/or obtain the services of temporary workers, independent contractors, and/or freelancers.

Growing businesses and markets have been created by the need for individuals, independent contractors, and/or freelancers to find and/or to secure jobs, employment, projects and/or assignments, and by the need of employers and/or hiring entities to recruit and hire new employees, independent contractors, and/or freelancers. These businesses and markets include employment agencies, recruiters, so-called "headhunters", employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, who or which, respectively, bring the respective parties together and/or assist them in obtaining introductions, establishing a dialog between parties, reaching agreement on, and/or establishing an employment, an independent contractor, and/or a freelance relationship.

Job searching activities and recruitment activities typically require efforts in introducing parties to one another, pre-screening the parties prior to, and/or subsequent to, an introduction, acting as an information gathering entity for a party, exchanging information in order to determine if a relationship is appropriate and/or desirable, negotiating a deal, and/or consummating a deal between the respective parties. While individuals and/or employers and/or hiring entities can act on their own behalf during most of the

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process, one of the parties may typically enlist the efforts of an employment agency or agencies, a recruiter(s), a so-called "headhunter(s)", an employment and/or career consultant(s), a temporary employment agency or agencies, a personal agent(s), a personal manager(s), and/or another intermediary or intermediaries, sometimes at great expense.

The enlistment of employment agencies, recruiters, so-called "headhunters", employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, can be costly and can lead to job search efforts and/or recruitment efforts which may be limited in breadth and/or scope by the personal and/or individual contacts, limitations and/or constraints associated with the employment agency, recruiter, so-called "headhunter", employment and/or career consultant, temporary employment agency, personal agent, personal manager, and/or other intermediary.

In this regard, job search efforts and/or recruitment efforts may be limited, thereby depriving an individual and/or an employer and/or hiring entity of being introduced to the best possible candidates. In some instances, an employer and/or hiring entity may forgo access to certain candidates simply because they cannot and/or refuse to enlist the efforts of a recruiter and/or other intermediary.

Job searching efforts and recruitment efforts may be limited by and/or be constrained by limited personal contacts, geographical constraints, monetary constraints, and/or time constraints. Oftentimes, individuals, employers and/or hiring entities, do not have the resources to conduct their own respective job searching efforts or recruitment efforts. The enlistment of employment agencies, recruiters, so-called "headhunters", employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, may not be sufficient to overcome these limitations and/or constraints, particularly, if the respective employment agency or agencies, recruiter(s), so-called "headhunter(s)", employment and/or career consultant(s), temporary employment agency or agencies, personal agent(s), personal manager(s) and/or other intermediary or intermediaries, are working with similar limitations and/or constraints.

The job search process and/or the recruitment process can typically be rendered more difficult in instances when additional information may be requested by one or by both of the parties concerning a counterpart. This typically results in time delays and/or additional expense to the party having to comply with such a request.

Job searching efforts and/or recruitment efforts may further be rendered more difficult when the parties are not properly pre-screened, thereby resulting in wasted time and effort, and/or when the parties are not properly informed as to the needs and/or demands of a counterpart. The needs and/or demands can include job description, job needs, project description, assignment description, salary, compensation, and/or other related information. The failure to pre-screen the parties and/or to conduct a dialog and/or initiate interviews and/or discussions when the parties may be so far apart regarding their respective needs, requests and/or expectations, for example, those involving job duties and/or salary, can result in wasted time and effort.

Confidentiality is typically another concern in job searching activities and/or in recruitment activities. Individuals, employees, and/or hiring entities may have an interest in, and/or a desire for, maintaining confidentiality during at least some initial stages of any job search and/or recruitment effort. In some instances, once an initial interest is



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expressed, any confidentiality which may have existed may be lost for the remainder of the process. Sometimes, it may be desirable for an individual, an employer and/or hiring entity, to retain at least some level of confidentiality and/or anonymity further into the job search and/or recruitment process. In this manner, at least some confidentiality and/or anonymity can be preserved, especially if a deal between the parties is not ultimately reached.

Job searching activities and/or recruitment activities may be far too widespread and may be far too important to be limited by the above-described limitations and/or constraints. Individuals, employers and/or hiring entities would be better served by a system which overcomes the shortcomings of the prior art.

### SUMMARY OF THE INVENTION

The apparatus and method of the present invention overcomes the shortcomings of the prior art and provides an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services. The present invention utilizes the technologies and advances in information technology and in communication technology in order to provide these services in a network environment.

The present invention is directed to an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, for the respective individuals, employees, independent contractors, freelancers, employers and/or hiring entities, described herein in a network environment. The present invention also provides a centralized apparatus, which can also serve as a clearinghouse, which provides job searching services, recruitment services, and/or recruitment-related services, as well as any of the services and/or activities described herein.

The apparatus and method of the present invention can be utilized by individuals, independent contractors, freelancers, and/or other entities, desirous of securing a job, a position, a project, an assignment, and/or an employment relationship, either permanent and/or temporary, with an employer and/or a hiring entity. The apparatus and method of the present invention can also be utilized by employers and/or by other hiring entities desirous of securing the services of an individual, an employee, an independent contractor, and/or freelancer, either permanently and/or temporarily.

The present invention can also be utilized by an employment agency, a recruiter, a so-called "headhunter", or other intermediary, in order to assist and/or to act on behalf of any of the individuals, employers and/or hiring entities described herein. The present invention can also be utilized in order to provide agency services for any of the herein described parties, i.e., individual, employees, independent contractors, freelancers, employers, hiring entities, recruiters, headhunters, etc.

The apparatus and method of the present invention can be utilized in a network environment in order to effectuate any of the services described herein on, or over, any communication network.

The apparatus can include a central processing computer or server computer, at least one or more individual computers and at least one or more employer computers. Each of the herein-described computers may communicate with any and all of the computers which are utilized in conjunction with the apparatus of the present invention. The present invention may be utilized in any communication network such as the Internet, the World Wide Web, a telecommunications

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network, and/or any other communication network described herein and/or otherwise.

Each of the central processing computer(s), the individual computers, and/or the employer computers can include any and/or all components, peripherals, hardware, and/or software, for facilitating the use thereof in a manner consistent with the present invention as described herein.

The central processing computer may also include, and/or be linked to, a database(s) and/or other storage and/or memory device(s) for storing any and/or all of the data and/or information described as being utilized, and/or which may be utilized, in conjunction with the present invention.

The present invention provides job search services, recruitment services, and/or recruitment-related services, while preserving confidentiality among and/or between the parties and/or between the parties and third parties, and may further provide for varying layers of confidentiality for the parties involved. The present invention can also provide enhanced information services for the parties utilizing same, including but not limited to, links, hyperlinks, and/or other pointing and/or linking devices for linking a user to additional and/or supplemental information concerning any of the individuals, employers, hiring entities, and/or other parties, involved in a dialog, negotiations and/or discussions.

The data and/or information utilized in conjunction with the present invention can also be utilized by the various individuals, employers, hiring entities, contractors, applicants, recruiters, headhunters, third party intermediaries, and/or the operator and/or the administrator of the apparatus, and can be uploaded to, downloaded from, and/or be stored and/or be resident on any of the central processing computer(s), the individual computer(s), and/or the employer computer(s).

The apparatus and method of the present invention can be utilized to perform various job-searching services, recruitment services and/or recruitment-related services and/or functions. The present invention may be utilized by an individual, a prospective employee, an independent contractor, a freelancer, either permanent or temporary, to find or to locate a job, a position, a project and/or an assignment, for which they may wish to apply. The present invention can also be utilized by an employer and/or hiring entity to recruit and/or to search for, an individual, a prospective employee, an independent contractor, and/or a freelancer, either permanent or temporary.

The present invention can also be utilized by a recruiter, a headhunter, and/or a third party intermediary, in order to assist an individual, a prospective employee, an independent contractor, and/or a freelancer, in searching for a job, a position, a project, and/or an assignment, and/or for assisting an employer and/or a hiring entity in searching for, and/or for recruiting an individual, a prospective employee, an independent contractor, and/or a freelancer, in order to fill a hiring and/or other need.

The present invention may also be utilized to notify an individual, a prospective employee, an independent contractor, and/or freelancer, of the existence and/or the availability of an opportunity for and/or related to a job, a position, a project and/or an assignment. The present invention may also be utilized to notify an employer and/or a hiring entity of the availability of an individual, a prospective employee, an independent contractor, and/or freelancer.

Any and/or all of the communications between the parties may be effected via electronic message transmission, e-mail, electronic forms submission, a telephone call, telephone

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messaging, facsimile messaging, pager and/or beeper messaging, physical mailing, and/or via any other appropriate method, means and/or mechanism.

Employers and/or other hiring entities can post data and/or list information regarding jobs, employment positions, temporary positions, assignments, freelance assignments, contracting assignments and/or jobs, as well as any other assignments, projects and/or efforts which require and/or which may require the services of an individual, an employee, an independent contractor, a freelancer, a temporary employee, etc., with the present invention.

Similarly, individuals, job applicants, prospective employees, independent contractors, temporary workers, and/or freelancers, etc., can also post and/or list data and/or information regarding themselves with the present invention.

The present invention can be utilized in order to allow employers and/or hiring entities to bid for individuals, employees, independent contractors, and/or freelancers. The present can also be utilized in order to allow individuals and/or their agents and/or managers to auction and/or offer their services to employers and/or to hiring entities.

The present invention can be utilized for managing work schedules, and/or for maintaining information regarding work schedules for an individual or entity, including, but not limited to any job applicant, temporary worker, independent contractor, and/or freelancer. An employer and/or hiring entity can obtain information regarding the work, temporary assignment, and/or project or assignment, schedules for any individual or entity utilizing the present invention. An employer and/or hiring entity may hire and/or reserve the time of and/or the services of, the individual and/or entity via the present invention.

The present invention can also provide an individual and/or an employer and/or hiring entity with data and/or information regarding the latest developments and/or current developments in the employment and/or recruiting fields, including, but not limited to, growth areas, demand information for certain jobs and/or professions, salary surveys, etc. In this manner, the present invention can provide information for allowing an individual, an employer and/or hiring entity to determine the state of the job market and/or to utilize this information in any appropriate manner so as to minimize the time, effort and/or expense of job searching efforts and/or recruitment efforts.

The present invention can also provide notification to any of the individuals, employers and/or hiring entities, when and/or if information is being and/or has been requested about he, she or it. The present invention can also provide the identity of the party requesting the information to the respective individual, employer and/or hiring entity.

The present invention can also provide for the blockage of any access, authorized and/or unauthorized, to any of the data and/or information utilized in conjunction with the present invention and/or concerning any individual, entity, employer, and/or hiring entity, utilizing the present invention. The present invention can also provide any data and/or information specifically, generically, generally, such as for a group, and/or statistically and/or in any other manner.

The present invention can also be utilized so as to prevent certain individuals and/or entities, employers and/or hiring entities, from accessing the data and/or information about any other individual, entity, employer, and/or hiring entity.

The operation of the present invention may be triggered by any type of pre-specified event and/or occurrence which may include a new individual listing, a new employer and/or

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hiring entity listing, a departure of an individual from an employer, the completion of a job, project and/or assignment, changes in an economic factor(s), changes in a market factor(s), an increase in an unemployment rate, the unemployment of an individual, a detected need for jobs having a certain skill(s), and/or any other event, situation, and/or any other occurrence which may be deemed to have some relationship and/or effect related to job searching efforts and/or recruitment efforts.

The apparatus and method of the present invention can also be utilized for performing and/or for facilitating the provision of recruitment services for schools, colleges, universities, and/or any organizations of any kind.

The apparatus of the present invention can also be programmed in order to be self-activating and/or activated automatically.

The apparatus of the present invention can also be programmed in order to generate and/or transmit any of the e-mails, electronic message transmissions, electronic notification transmissions, and/or any of the communications, described herein between any of the parties utilizing the present invention.

The present invention can be utilized in conjunction with intelligent agents, software agents and/or mobile agents, in order to provide for these respective agents to act for, or on behalf of, a respective party.

The present invention can also be utilized in order to generate electronic catalogs and/or electronic coupons for advertising and/or for publicizing the availability of individuals, independent contractors, and/or freelancers, for work, and/or for advertising and/or publicizing jobs, employment positions, projects and/or assignments, which employers and/or hiring entities are seeking to fill.

The present invention can also be utilized in order to monitor, record and/or keep track of, all offers and/or rejections involving any and all jobs, employment positions, projects and/or assignments, which occur in conjunction with and/or via use of the present invention. The information compiled can be provided to individuals, employers, and/or recruiters for use in any appropriate and/or suitable manner.

The present invention, can also store individual and/or employer data and/or information with various and/or varying levels of specificity and/or confidentiality.

The apparatus and method of the present invention can be utilized as an electronic and/or network-based recruiting apparatus and/or clearinghouse. The present invention can be utilized in order to reduce recruiting costs and so-called headhunter fees to employers as well as job search efforts and/or expenses to individuals. The present invention provides an apparatus and a method for eliminating intermediaries and/or unnecessary efforts and/or expense involved in job search and/or recruitment processes for any of the individuals, employers and/or hiring entities described herein.

The present invention can also be utilized in conjunction with the bartering and/or trading of services between parties, such as individuals, employers, and/or hiring entities.

The present invention also provides an apparatus and a method for providing enhanced confidentiality during the job-search, recruitment, and/or related interactions, negotiations and/or other dealings between the parties involved in same. The present invention can monitor and/or record any interaction between any of the parties which utilize the present invention.

The present invention can also be utilized in conjunction with job searches and/or recruiting efforts for any kind of

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job, profession, employment position, project, and/or assignment, and/or for any permanent, temporary, independent contractor, and/or freelance, job, employment position, project, and/or assignment.

The present invention can utilize electronic commerce technologies and security methods, techniques and technologies.

Accordingly, it is an object of the present invention to provide an apparatus and a method for providing job search services, recruitment services, and/or recruitment-related services.

It is another object of the present invention to provide an apparatus and a method for providing job search services, recruitment services, and/or recruitment-related services, in a network environment.

It is still another object of the present invention to provide an apparatus and a method for providing job search services, recruitment services, and/or recruitment-related services, on and/or over the Internet, the World Wide Web, and/or any other communication network.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides links to various data and/or information which may be requested, required, and/or desired, by the respective parties involved in job searching activities and/or in recruitment activities.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which utilizes databases which can be linked to external information sources.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which facilitates the posting of data and/or information by respective individuals and/or employers and/or hiring entities.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, which allows an individual to perform job searches.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, which allows an employer and/or hiring entity to perform recruitment searches.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which notifies an individual of job and/or employment opportunities which may be of interest to the individual when same become available.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which notifies an employer and/or hiring entity of individuals, prospective employees, independent contractors, permanent workers, temporary workers, and/or freelancers, who or which may be of interest to the employer and/or hiring entity when these individuals and/or entities become available.

It is another object of the present invention to provide an apparatus and a method for providing job searching services,

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recruitment services, and/or recruitment-related services, which utilizes data and/or information which is specific, generic, and/or general, to an individual, to an employer, and/or to hiring entity.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which facilitates providing notification to an employer and/or hiring entity when a recruitment-related opportunity arises.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which facilitates providing notification to an individual when an employment-related opportunity arises.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides for the securing and/or the reserving of services of an individual, an independent contractor, and/or a freelancer.

It is still another object of the present invention to provide an apparatus and a method for providing job-searching services, recruitment services, and/or recruitment-related services, which provides notification of the availability of an individual, a prospective employee, a job applicant, an independent contractor, a temporary worker, and/or a freelancer, for a job, position, project, or assignment.

It is yet another object of the present invention to provide an apparatus and a method for providing job-searching services, recruitment services, and/or recruitment-related services, which provides notification of the availability of a job, an employment position, a project, and/or an assignment, with an employer and/or hiring entity.

It is another object of the present invention to provide an apparatus and a method of the providing job-searching services, recruitment services, and/or recruitment-related services, which utilizes electronic messages and/or e-mail messages which contain links to information and/or information sources which may be utilized in providing said information.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides for bidding and/or auctioning activities regarding said services.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides scheduling services and/or schedule management services for an individual, an independent contractor, a freelancer, an employer and/or hiring entity.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides information regarding developments related to the job-search and/or recruitment fields.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides notification to an individual, an independent contractor, a freelancer, and an employer and/or hiring entity, when data and/or information has been requested about them.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching



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services, recruitment services, and/or recruitment-related services, which can be utilized by an individual, an independent contractor, a freelancer, an employer and/or hiring entity, and/or a party acting on behalf of same.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which prevents access to certain data and/or information by certain parties.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, which can be programmed to be self-activating and/or be activated automatically.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services which generates electronic messages, e-mail messages, telephone calls, pager calls, pager messages, and/or other communication messages, automatically.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which utilizes intelligent agents, software agents, and/or mobile agents, for providing various services for, and/or for taking action on behalf of, a respective party.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides links and/or hyperlinks to information, products and/or services related thereto.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides automatic notification of, and/or announcements of, job openings, position openings, projects, and/or assignments, the availability of job applicants and/or the availability of goods and/or service providers, to respective parties.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which monitors, records, and/or provides notification of, any communications which take place and/or which may transpire between respective parties.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides for the generation of and/or the distribution of electronic catalogs and/or electronic coupons related to job search activities and/or recruitment activities.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides notification of job-search-related and/or recruitment-related events and/or occurrences.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which monitors, records and/or keeps track of, job search and/or recruitment activities of, and for, any of the respective parties.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related

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services, which provides for the storage and/or the utilization of data and/or information with various and/or varying levels of confidentiality and/or specificity.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which is utilized in conjunction with the buying, selling, bartering and/or trading, of goods and/or services.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides enhanced confidentiality during the respective job search, recruitment, and/or related activities and/or interactions.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which monitors and/or records communications, interactions, and/or dealings, between parties.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides statistical information pertaining to job searches, recruitment activities, and/or related activities.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which can be utilized in conjunction with independent job search efforts and/or independent recruitment efforts.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which can administer a financial account for, and/or on behalf of a party, and which can effect a payment from one party to another, and/or receive a payment for, and/or on behalf of, a party.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, for schools, colleges, universities, and/or any organizations of any kind.

Other objects and advantages of the present invention will be apparent to those skilled in the art upon a review of the Description of the Preferred Embodiment taken in conjunction with the Drawings which follow.

#### BRIEF DESCRIPTION OF THE DRAWINGS

In the Drawings:

FIG. 1 illustrates the apparatus of the present invention, in block diagram form;

FIG. 2 illustrates the central processing computer of the apparatus of FIG. 1, in block diagram form;

FIG. 3 illustrates the individual computer of the apparatus of FIG. 1, in block diagram form;

FIG. 4 illustrates the employer computer of the apparatus of FIG. 1, in block diagram form;

FIGS. 5A to 5E illustrate a preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form;

FIGS. 6A to 6E illustrate another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form;

FIG. 7 illustrates another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form; and

FIG. 8 illustrates another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form.

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## DESCRIPTION OF THE PREFERRED EMBODIMENTS

The present invention is directed to an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, and, in particular, to an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, for effectuating services and activities involving and/or related to job search efforts and/or recruitment efforts, by, and/or for, individuals, independent contractors, freelancers, employers and/or hiring entities.

The apparatus and method of the present invention provides services which facilitate individual, independent contractor, and/or freelancer, job search efforts, employer and/or hiring entity recruitment, search and/or placement efforts, and/or related efforts. The present invention also provides a centralized apparatus, and/or a clearinghouse, for providing and/or for facilitating the herein-described efforts, services, and/or activities.

The apparatus and method of the present invention can be utilized by individuals and entities desirous of identifying and/or securing an employment relationship, either permanent and/or temporary, an independent contractor relationship, and/or a freelancer relationship, with an employer and/or hiring entity. The apparatus and method of the present invention can also be utilized by employers and/or hiring entities desirous of searching for, and/or for securing the services of, an individual, an independent contractor, and/or a freelancer, either permanently and/or temporarily.

The present invention can also be utilized by an employment agency, an agent, a recruiter, a so-called "headhunter", a career consultant, a personal manager, and/or an intermediary, to assist an individual, an independent contractor, and/or a freelancer, in searching for a job, a position, a project, and/or assignment. The present invention can also be utilized to assist an employer and/or hiring entity to search for an individual, an independent contractor, and/or a freelancer. The present invention can also be utilized in order to provide agency services for any of the herein described parties, such as, but not limited to, individuals, independent contractors, freelancers, employers, hiring entities, recruiters, and/or headhunters.

The terms "individual", "employee", "prospective employee", "applicant", "contractor", "independent contractor", "temp", "temporary employee", "freelancer" etc., as used herein, refer to any individual, person, company, business entity, independent contracting business or entity, employment agent and/or agency, and/or any other entity, seeking to identify, find, and/or secure, a job, an employment position, a project, and/or an assignment, for himself, herself, itself, and/or for another.

The terms "employer", "hiring entity", "company", "business", etc., as used herein, refer to any employer, hiring entity, individual, person, company, business entity, and/or other entity, seeking to identify, find, or secure the services of, an individual, independent contractor, and/or freelancer, for itself and/or for another.

The terms "recruiter", "headhunter", "employment agency", "placement agency", "employment consultant", "placement consultant", etc., refer to any individual, person, and/or entity, who or which acts as an intermediary for, and/or on behalf of, any party or parties described herein, in order to initiate and/or to effectuate a job search and/or a recruitment activity and/or any searches or activities which result, and/or which proceed, therefrom.

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Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. Provisional Patent Application Serial No. 60/146,776 which teaches an apparatus and method for providing job searching services, recruitment services and/or recruitment-related services.

The apparatus and method of the present invention can be utilized in a network environment in order to effectuate any of the services described herein.

FIG. 1 illustrates a preferred embodiment of the apparatus of the present invention which is designated generally by the reference numeral **100**. In FIG. 1, the apparatus **100** includes a central processing computer or server computer **10**. The central processing computer **10** provides control over the apparatus **100** and provides services for the various computers associated with the various individuals employees, contractors, independent contractors, freelancers, employers, hiring entities, recruiters, etc., who or which utilize the apparatus **100** of the present invention.

The central processing computer **10**, in the preferred embodiment, can be any suitable computer, network computer, or computer system, for providing service for the various computers associated with the individuals, employees, independent contractors, freelancers, employers, hiring entities, recruiters, etc., who or which utilize the present invention.

In the preferred embodiment, any number of central processing computers **10** may be utilized in order to provide the servicing functions described herein. The central processing computer(s) **10** may be linked to other central processing computers or may be stand alone devices. A given central processing computer **10** may service a particular geographic area or certain individuals employees, independent contractors, freelancers, employers, hiring entities, recruiters, etc., and/or groups thereof. A central processing computer **10** may also be dedicated to service any one or group of the above described individuals and/or entities.

The apparatus **100**, in the preferred embodiment, also includes one or more individual computers **20**. Each individual computer **20** may be a personal computer or other communication device suitable for allowing the individual to interact with the central processing computer(s) **10**. Each individual computer **20** can be utilized to transmit information to the central processing computer **10** and to receive information from the central processing computer **10** via the communication network.

The individual computer **20** can be a personal computer, a hand-held computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and/or a watch. In the present invention, any number of individual computers **20** may be utilized. In the present invention, each individual or entity utilizing the present invention may have one or more individual computers **20** associated therewith.

The apparatus **100**, in the preferred embodiment, also includes one or more employer computers **30**. Each employer computer **30** may be a personal computer or other communication device suitable for allowing the employer to interact with the central processing computer(s) **10**. Each employer computer **30** can be utilized to transmit information to the central processing computer **10** and to receive information from the central processing computer **10** via the communication network.

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The employer computer **30** can be a personal computer, a hand-held computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and/or a watch. In the preferred embodiment, any number of employer computers **30** may be utilized. In the present invention, each employer and/or hiring entity utilizing the present invention may have one or more employer computers **30** associated therewith.

Each of the individual computer(s) **20** and each of the employer computer(s) **30** described herein can transmit information to each central processing computer **10** as well as receive information from each central processing computer **10**. In addition, each individual computer **20** can also transmit information to any employer computer **30** as well as receive information from any employer computer **30**. In a similar-manner, each employer computer **30** can transmit information to any individual computer **20** as well as receive information from any individual computer **20**.

The central processing computer(s) **10**, the individual computer(s) **20**, and/or the employer computer(s) **30** can communicate with one another, and/or be linked to one another, over a communication network and/or a wireless communication network. In the preferred embodiment, the present invention is utilized on, and/or over, the Internet and/or the World Wide Web. The present invention, in the preferred embodiment, can also utilize wireless Internet and/or World Wide Web services, equipment and/or devices. The central processing computer(s) **10**, in the preferred embodiment, has a web site or web sites associated therewith.

Although the Internet and/or the World Wide Web is the preferred communication system and/or medium utilized, the present invention, in all of the embodiments described herein, can also be utilized with any appropriate communication systems including, but not limited to, network communication systems, telephone communication systems, cellular communication systems, digital communication systems, personal communication systems, personal communication services (PCS) systems, satellite communication systems, broad band communication systems, low earth orbiting (LEO) satellite systems, and/or public switched telephone networks or systems.

In the preferred embodiment, each of the central processing computer(s) **10**, the individual computer(s) **20**, and employer computer(s) **30**, can transmit data and/or information using TCP/IP, as well as any other Internet and/or World Wide Web, protocols.

The individual computer **20**, in the preferred embodiment, can be linked directly or indirectly with a central processing computer **10**. The employer computer **30**, in the preferred embodiment, can also be linked directly or indirectly with a central processing computer **20**. In any of the preferred embodiments described herein, any individual computer(s) **20** and any employer computer(s) **30** can be linked directly or indirectly with one another so as to facilitate a direct or indirect bi-directional communication between an individual computer(s) **20** and an employer computer(s) **30**.

FIG. 2 illustrates the central processing computer **10**, in block diagram form. The central processing computer **10**, in the preferred embodiment, is a network computer or computer system which is utilized as a central processing computer such as an Internet server computer and/or a web site server computer. In the preferred embodiment, the

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central processing computer **10** includes a central processing unit or CPU **10A**, which in the preferred embodiment, is a microprocessor. The CPU **10A** may also be a microcomputer, a minicomputer, a macro-computer, and/or a mainframe computer, depending upon the application.

The central processing computer **10** also includes a random access memory device(s) **10B** (RAM) and a read only memory device(s) **10C** (ROM), each of which is connected to the CPU **10A**, a user input device **10D**, for entering data and/or commands into the central processing computer **10**, which includes any one or more of a keyboard, a scanner, a user pointing device, such as, for example, a mouse, a touch pad, and/or an audio input device and/or a video input device, etc., if desired, which input device(s) are also connected to the CPU **10A**. The central processing computer **10** also includes a display device **10E** for displaying data and/or information to a user or operator.

The central processing computer **10** also includes a transmitter(s) **10F**, for transmitting signals and/or data and/or information to any one or more of the individual computer(s) **20** and employer computer(s) **30** which may be utilized in conjunction with the present invention. The central processing computer **10** also includes a receiver **10G**, for receiving signals and/or data and/or information from any one or more of the individual computer(s) **20** and/or employer computer(s) **30**.

The central processing computer **10** also includes a database(s) **10H** which contains data and/or information pertaining to the individuals, employees, independent contractors, freelancers, and/or other persons or entities, who or which utilize the present invention in order to find or secure a job, project, or assignment. The database **10H** also contains data and/or information pertaining to the employers and/or hiring entities who or which utilize the present invention to recruit individuals, independent contractors, or freelancers, in order to satisfy their needs and/or requirements. The database **10H** may also contain data and/or information pertaining to recruiters, headhunters, management consultants, managers, and/or other intermediaries, and/or third parties, who or which utilize the present invention in order to act on behalf of any of the individuals, independent contractors, freelancers, employers and/or hiring entities, who attempt to match the needs of any of the parties described herein.

Individual data and/or information, which can be stored in the database **10H**, can include, but not be limited to, the individual's name, sex, age, address, educational information, schooling, work experience, work history, skills, work-related skills, past employers, references, salary history, salary requirements, benefit requirements, school transcripts, links to registrar's offices and/or databases at respective school(s) and/or to a transcript database and/or electronic storage facility, medium, and/or device, which stores transcripts and/or other scholastic and/or educational information about an individual(s), work samples, reference letters, recommendation letters, pictures, video clips, and/or other relevant and/or pertinent information. In this manner, the present invention facilitates more efficient access to data and/or information pertaining to an individual(s).

In order to preserve confidentiality and/or so as to maintain an anonymous identity, each of the above-described types of information can be described in a generic manner, i.e., a school can be listed as a large Ivy League institution as opposed to being named and positively identified. For example, an individual can be described as being a mid-level engineer having experience in computer programming, etc.



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Each and every field of data and/or information can be represented by a corresponding generic term or terms so as to keep the true information masked for a desired time period or during a certain period of processing. The individual data and/or information can also include certain jobs and/or events and/or occurrences for which the individual may desire to be notified. Any of the data and/or information may have hyperlinks associated therewith for directing a party to a separate and/or a different data and/or information source. The information source may be external from the central processing computer 10.

The database 10H can also contain data and/or information restricting access to any of the data and/or information stored in the database 10H. For example, an individual, independent contractor, freelancer, employer, and/or hiring entity, may, at any time, may restrict access by any party, to any of their respective data and/or information. For example, an individual may prevent a current employer from accessing his or her data and/or information, thereby maintaining the confidentiality of a job search. Similarly, any party may restrict the availability of any of its data and/or information from any other party or parties.

In the cases of temporary employees, self-employed individuals, professionals, independent contractors, freelancers, etc., the database 10H can contain information regarding the schedules and/or work calendars for any of these individuals, employees, and/or entities. In this regard, each individual, employee, and/or entity in this category may store and have maintained by the apparatus 100, a work schedule and/or working calendar which can provide information regarding days and/or time periods of employment and/or engagement as well as days and/or time periods of availability.

The database 10H can also contain information pertaining to employers whom an individual will readily work for if the employer should need and/or request the individual. The individual data and/or information can also include employers and/or hiring entities whom the individual, independent contractor, or freelancer, has agreed in advance to work for, as well as employers and/or hiring entities whom the individual has decided in advance not to work for. The database 10H can also include information regarding which employers and/or hiring entities may access an individual's data and/or information as well as those employers and/or hiring entities who may not access an individual's data and/or information.

The database 10H also includes data and/or information about employers who or which utilize the present invention which information includes, but is not limited to, employer name, company name, job offerings, job openings, job(s) or position(s) needed to be filled, job(s) or position(s) desired to be filled, employer size, employer location, regional location, jobs or positions employed, benefits offered, employer history, salary information, compensation information, customer information, supplier information, information from past employees, information from current employees, past and/or current employment agencies or recruiter representing the employer, types of positions, including but not limited to permanent and/or temporary positions, references, pictures of facilities, video clips, fringe benefits, work hours, work requirements, recommendation letters, salary and/or compensation information.

The data and/or information contained in the database 10H can also include information concerning events, occurrences, availability of an applicant or applicants and/or any other information of which the employer may wish to be notified.

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As in the case with individuals, in order to preserve confidentiality and/or so as to maintain an anonymous identity, each of the above-described types of information can be described in a generic manner, i.e., an employer can be listed as a large computer manufacturer as opposed to being named and positively identified.

Each and every field of data and/or information, described herein as being stored in the database 10H and/or otherwise utilized by the present invention, can be represented by a corresponding generic term or terms so as to keep the true information masked for a desired time period or during a certain period of processing. The employer data and/or information can also include events and/or occurrences for which the employer may desire to be notified. Any of the data and/or information stored in the database 10H may have hyperlinks associated therewith for directing a party to a separate and/or to a different data and/or information source, which may also be external from the central processing computer 10.

The employer data and/or information can also include work schedules and/or work calendars which provide information regarding when the employer will be in need of the assistance of and/or the services of individuals, independent contractors, temporary employees, and/or freelancers. The database 10H can contain information regarding the schedules and/or work calendars providing notification of the human resource and/or employee requirements for the employer and/or hiring entity thereby providing information regarding days and/or time periods when it will require the assistance of individuals, independent contractors and/or freelancers.

The database 10H may also contain information regarding which individuals, independent contractors, and/or freelancers, may be approved, in advance, for hiring-and/or for working for the employer and/or hiring entity, as well as data and/or information regarding which individuals, independent contractors, and/or freelancers, may be prohibited, in advance, from being hired by, and/or from working for, the employer and/or hiring entity. The database 10H may also contain information regarding which individuals, independent contractors, and/or freelancers, may obtain information about the employer and/or hiring entity as well as information regarding those individuals who may be prohibited from obtaining such information. The database 10H may also contain information regarding which individuals, independent contractors, and/or freelancers, may apply for a job, position, project, or assignment, with an employer and/or hiring entity as well as information regarding those individuals who may be prohibited from so applying.

The database 10H may also contain data and/or information pertaining to an employment agency, recruiters, headhunters, agents, managers, and/or other third party intermediaries (hereinafter "recruiter"), who or which attempt to bring individuals and employers together so as to facilitate the fulfillment of the needs of the respective parties. The information can include, but not be limited to, the recruiter's name, location, types of positions filled by same, information from past clients, references, past dealings and/or deals with an employer and/or hiring entity, salary histories of past deals, etc.

As in the case with individuals and employers, in order to preserve confidentiality and/or so as to maintain an anonymous identity, each of the above-described types of information can be described in a generic manner, i.e., a recruiter and/or any information pertaining thereto can be described generically, i.e. a legal recruiter specializing in placing

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bankruptcy attorneys, etc., as opposed to being named and positively identified.

Each and every field of data and/or information can be represented by a corresponding generic term or terms so as to keep the true information masked for a desired time period or during a certain period of processing. The recruiter data and/or information can also include events and/or occurrences for which the recruiter may desire to be notified. Any of the data and/or information stored in the database 10H may have hyperlinks associated therewith for directing a party to a separate and/or a different data and/or information source, which may also be external from the central processing computer 10.

The database 10H may also contain any other information which may be relevant, pertinent, useful, and/or desired, for facilitating the operation of the apparatus and method of the present invention as described herein and/or as related thereto.

The database 10H, in the preferred embodiment, is a database which may include individual databases or collections of databases, with each database being designated to store any and all of the data and/or information described herein.

The database 10H may also contain data and/or information concerning past placements and/or transactions with such data and/or information being stored after each placement and/or transaction which occurs via the apparatus and method of the present invention. Any and all data and/or information can be stored regarding transactions which occur via the present invention as well as those transactions which occur independently of the present invention. The data and/or information can then be compiled and processed using statistical calculations in order to update the stored historical placement and/or transaction data and/or information with such data and/or information being made available to users of the apparatus 100. Applicant hereby incorporates by reference herein the teachings of *Basic Business Statistics Concepts and Applications*, Mark L. Berenson and David M. Levine, 6<sup>th</sup> Edition, Prentice Hall 1996.

The database 10H may also contain data and/or information concerning attrition rates at individual employers and/or hiring entities, as well as in different fields and/or market sectors, salary information, salary surveys for particular jobs, professions, etc., including salary, benefits, and/or other compensation, data and/or information for various experience levels, skill levels, skills and abilities, educational credentials, and/or other data and/or information which may be utilized by any of the individuals and/or employers described herein, by job or profession type, by market sector, by type of employer, and/or by location and/or geographic region.

The database 10H may also contain data and/or information regarding the latest developments and/or current developments in the employment and/or recruiting field, including, but not limited to, growth areas, demand information for certain jobs and/or professions, etc.

The data and/or information which is stored in the database 10H, or in the collection of databases, can be linked via relational database techniques, to the respective employer computers 30 and/or individual computers 20 and/or via any appropriate database management techniques. The data and/or information, in the preferred embodiment, can be updated via inputs from the respective individual computers 20, and/or employer computers 30, and/or from any other information source, at any time. Information updates can also be provided from other information sources via the communication network.

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The database 10H, or collection of databases, may be updated by each of the respective individuals, employers, or by an administrator and/or operator of the central processing computer 10, and/or by any other third party, in real-time, and/or via dynamically linked database management techniques. The data and/or information stored in the database 10H can also be updated by external sources. The database 10H will contain any and all information deemed necessary and/or desirable for providing all of the processing and/or services and/or functions described herein. Applicant hereby incorporates by reference herein the subject matter of *Fundamentals of Database Systems*, by Ramez Elmasri and Shamkant B. Navathe, 2<sup>nd</sup> Ed., Addison-Wesley Publishing Company, 1994.

The database 10H can also contain any information needed for corresponding with any of the individuals, independent contractors, freelancers, employers and/or hiring entities, and/or recruiters, described herein, such as their respective addresses, telephone numbers, e-mail addresses, pager number, and/or any other information for facilitating a communication with any of these respective parties.

The database 10H can also include employer-related data and/or information, job and/or position-related information, individual, independent contractor and/or freelancer, data and/or information, recruiter, headhunter, and/or third party intermediary-related information, and/or any other data and/or information needed and/or desired for performing any of the herein-described methods and features of the present invention.

With reference once again to FIG. 2, the central processing computer 10 also includes an output device 101 such as a printer, a modem, a fax/modem, or other output device, for providing data and/or information to the operator or user of the central processing computer 10 or to a third party or third party entity.

In the preferred embodiment, each of the individual computer(s) 20 and the employer computer(s) 30, include the same, similar, or analogous, components and/or peripheral devices as described herein for the central processing computer 10. In this manner, any individual computer(s) 20 or employer computer(s) 30, may be the same as, or be similar to, the central processing computer 10. In this regard, and depending upon the application and/or individual and/or employer requirements, each of the individual computer(s) 20 and/or each of the employer computer(s) 30 can have the same or similar components as the central processing computer 10.

FIG. 3 illustrates the individual computer 20, in block diagram form. The individual computer 20, in the preferred embodiment, is a network computer or computer system which is utilized to access and/or to communicate with the central processing computer 10. In the preferred embodiment, the individual computer 20 includes a central processing unit or CPU 20A, which in the preferred embodiment, is a microprocessor. The CPU 20A may also be a microcomputer, a minicomputer, a macrocomputer, and/or a mainframe computer, depending upon the application.

The individual computer 20 also includes a random access memory device(s) 20B (RAM) and a read only memory device(s) 20C (ROM), each of which is connected to the CPU 20A, a user input device 20D, for entering data and/or commands into the individual computer 20, which includes any one or more of a keyboard, a scanner, a user pointing device, such as, for example, a mouse, a touch pad, and/or an audio input device and/or a video input device, etc., if desired, which input device(s) are also connected to the CPU



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**20A.** The individual computer **20** also includes a display device **20E** for displaying data and/or information to a user or operator.

The individual computer **20** also includes a transmitter(s) **20F**, for transmitting signals and/or data and/or information to any one or more of the central processing computer(s) **10** and to the employer computer(s) **30**. The individual computer **20** also includes a receiver **20G**, for receiving signals and/or data and/or information from any one or more of the central processing computer(s) **10** and/or the employer computer(s) **30**.

The individual computer **20** also includes a database(s) **20H** which can contain any and/or all of the data and/or information described herein with regards to the database **10H** of the central processing computer **10**. The database **20H** can also contain data and/or information personal to an individual or group of individuals, as well as data and/or information concerning the work schedule(s) and/or work calendar(s) for the individual and/or group of individuals for which the individual computer(s) **20** is/are associated. This data and/or information can also include information concerning when the individual is scheduled to work and/or when the individual is available to take work assignments.

With reference once again to FIG. 3, the individual computer **20** also includes an output device **20I** such as a printer, a modem, a fax/modem, or other output device, for providing data and/or information to the operator or user of the individual computer **20** or to a third party or third party entity.

FIG. 4 illustrates the employer computer **30**, in block diagram form. The employer computer **30**, in the preferred embodiment, is a computer or computer system which is utilized to access and/or to communicate with the central processing computer **10**. In the preferred embodiment, the employer computer **30** includes a central processing unit or CPU **30A**, which in the preferred embodiment, is a microprocessor. The CPU **30A** may also be a microcomputer, a minicomputer, a macro-computer, and/or a mainframe computer, depending upon the application.

The employer computer **30** also includes a random access memory device(s) **30B** (RAM) and a read only memory device(s) **30C** (ROM), each of which is connected to the CPU **30A**, a user input device **30D**, for entering data and/or commands into the employer computer **30**, which includes any one or more of a keyboard, a scanner, a user pointing device, such as, for example, a mouse, a touch pad, and/or an audio input device and/or a video input device, etc., if desired, which input device(s) are also connected to the CPU **30A**. The employer computer **30** also includes a display device **30E** for displaying data and/or information to a user or operator.

The employer computer **30** also includes a transmitter(s) **30F**, for transmitting signals and/or data and/or information to any one or more of the central processing computer(s) **10** and individual computer(s) **20**. The employer computer **30** also includes a receiver **30G**, for receiving signals and/or data and/or information from any one or more of the central processing computer(s) **10** and/or the individual computer(s) **20**.

The employer computer **30** also includes a database(s) **30H** which can contain any and/or all of the data and/or information described herein with regards to the database **10H** of the central processing computer **10**. The database **30H** can also contain data and/or information concerning a particular employer and/or hiring entity and/or groups of employers and/or hiring entities, as well as data and/or

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information concerning the work schedule(s) and/or work calendar(s), including project schedules and/or calendars, for the employer and/or hiring entity, or groups thereof, for which the employer computer **30** is associated. This data and/or information can also include information concerning when the employer may be in need of individuals, independent contractors, and/or freelancers, and/or when the employer and/or hiring entity may not be in need of same.

With reference once again to FIG. 4, the employer computer **30** also includes an output device **30I** such as a printer, a modem, a fax/modem, or other output device, for providing data and/or information to the operator or user of the individual computer **20** or to a third party or third party entity.

The databases **20H** and **30H** of the individual computer(s) **20** and the employer computer(s) **30**, respectively, can contain any and/or all of the data and/or information which is stored and/or contained in the database **10H**.

The database **10H**, or collection of databases which form the database **10H**, as well as any database **20H** and/or **30H**, and/or any other database(s) described herein, can be implemented by utilizing database software and/or spreadsheet software, such as, for example database software by Oracle®, Microsoft® Access® and/or Microsoft® Excel®, or any other suitable database or spreadsheet software programs and/or systems.

The data and/or information can be provided by the various employers, hiring entities, individuals, independent contractors, freelancers, applicants, recruiters, headhunters, third party intermediaries, and/or the operator and/or the administrator of the apparatus **100**, and can be uploaded to, downloaded from, and/or be stored and/or be resident on any of the central processing computer(s) **10**, the individual computer(s) **20**, and/or the employer computer(s) **30**.

In the preferred embodiment, wherein the apparatus **100** is utilized over the Internet and/or the World Wide Web, hyperlinks and/or other data and/or information links and/or linking methods and/or devices, can be utilized in order to provide an additional mechanism by which any of the individual computers **20** and/or any of the employer computers **30**, can access and/or communicate with any other individual computer **20**, employer computer **30** as well as the central processing computer. Any and/or all of the central processing computer **10**, the individuals computers **20**, and/or the employer computers **30**, describe herein, can also be linked to, and/or can access and/or communicate with, any external computer, computer system, and/or information source (not shown), including, but not limited to, school registrar office computers, recruiter computers, employment agency computer, in order to access and/o obtain information therefrom.

The apparatus **100** and the method of the present invention can be utilized to perform various recruitment and/or recruitment-related services and/or functions. The present invention can be utilized by an individual, an independent contractor, and/or a freelancer, in order to search for, and/or to apply for, a job, a position, a project, and/or an assignment. The present invention can also be utilized by an employer and/or hiring entity in order to search for, and or to recruit, an individual, an independent contractor, and/or a freelancer, in order to fill a job, a position, a project, and/or an assignment.

The present invention can also be utilized by a recruiter, a headhunter, and/or a third party intermediary, in order to assist a respective individual, independent contractor, and/or freelancer, search for a job, a position, a project, and/or an

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assignment, as well as to assist an employer and/or a hiring entity to search for, and/or to recruit, an individual, an independent contractor, and/or a freelancer, in order to fill a job, a position, a project, and/or an assignment.

The data and/or information which is stored in the database 10H, as well as stored in any of the databases 20H and/or 30H, can be linked via any suitable data linking techniques such as, for example, dynamically linked lists (DLLs), linked lists, and object links embedded (OLE's).

In any and all of the embodiments described herein, each of the individual computers 20, the central processing computer(s) 10 and the employer computers 30 can communicate with one another via electronic submissions, electronic form submissions and/or transmissions, e-mail transmissions, facsimile transmissions, telephone messages, telephone calls, physical mail delivery, and/or via any other suitable communication technique, medium, or method.

In any and all of the embodiments described herein, employers and other hiring entities can post and/or list information regarding jobs, employment positions, temporary positions, assignments, freelance assignments, contracting assignments (hereinafter "jobs"), as well as any other assignments, projects, and/or efforts which require and/or which may require the services of individuals, independent contractors, freelancers, and/or temporary employees, etc.

Data and/or information regarding the above-described jobs, employment positions, assignments, etc., can be stored in the database 10H of the central processing computer 10. The data and/or information can also be stored in the database 20H of any individual computer 20 and/or in the database 30H of any employer computer 30.

Individuals, job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc., can also post and/or list data and/or information regarding themselves with the database 10H of the central processing computer 10. As in the case with employers and/or hiring entities, data and/or information regarding these Individuals, job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc., can also be stored in the database 20H of any individual computer 20 and/or in the database 30H of any employer computer 30.

Recruiters and/or other third party intermediaries described herein can also store data and/or information regarding any of the individuals, employers and/or hiring entities, whom they represent, which data and/or information can also be stored in the database 10H of the central processing computer 10 as well as the database 20h of the individual computer 20 and/or the database 30H of the employer computer 30. A recruiter or third party intermediary may utilize an individual computer 20 to access and/or utilize the present invention.

The apparatus and method of the present invention can be utilized in many preferred embodiments to provide job search services, recruitment services, and/or recruitment-related services. FIGS. 5A to 5E illustrate a preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form. FIGS. 5A to 5E illustrate a method for using the apparatus 100, for assisting individuals, job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc. (hereinafter referred to collectively as "individual" or "individuals"), to perform job searches, for employment positions, contracting jobs, temporary assignments and/or freelance assignments (hereinafter referred to as a "job" or "jobs").

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The operation of the apparatus 100 commences at step 200. At step 201, the individual accesses the central processing computer 10 via the individual computer 30. The individual may, at step 202, enter data and/or information regarding his or her education, skills, work experience, objectives and/or any other data and/or information pertinent to a job search. Step 202 may be dispensed with if this information has been entered by the individual previously. The data and/or information can be entered specifically and/or generically. If entered specifically, the individual can also enter generic data and/or information to preserve confidentiality, if desired.

Data and/or information may also be entered into the central processing computer 10 by uploading and/or downloading, whichever the case may be, a resume and/or any other pertinent data and/or information. Data and/or information may also be obtained via a questionnaire which may be provided and/or answered on-line. Any and/or all of such data and/or information may be stored in the database 10H.

The central processing computer 10 can also process the specific data and/or information in order to convert and/or separately store same as generic data and/or information. Any and all data and/or information stored at step 202, and/or previously, can be stored in the database 10H of the central processing computer 10 and/or in the databases 20H and/or 30H, respectively, of the individual computer 20 and/or the employer computer 30, as appropriate. At step 203, the individual can choose to have the search proceed with specific data and/or information and/or generic data and/or information.

If, at step 204, it is determined that a search with specific data and/or information is selected, the central processing computer 10 will proceed to step 205 and proceed with the specific data and/or information. Thereafter, the operation will proceed to step 207. If, however, at step 204, it is determined that a search with specific data and/or information is not selected, the central processing computer 10 will proceed to step 206 and proceed with the generic and/or general data and/or information. Thereafter, the operation will proceed to step 207.

At step 207, the individual will enter his or her job search, including any search criteria, into the central processing computer 10 via the individual computer 20. At step 208, the central processing computer 10 will query the database of posted and/or listed jobs and generate a report or list of jobs which meet the individual's search criteria. At step 209, the central processing computer 10 will provide the individual with the report or list of available jobs either electronically and/or otherwise. The results of the search can also be provided to the individual by being displayed on the display device 20E and/or by being printed via the output device or printer 20I.

Thereafter, the individual will decide whether he or she wishes to apply for any of the jobs. At step 210, the individual can transmit information to the central processing computer 10 regarding which, if any, of the reported jobs he or she wishes to apply for. At step 211, the central processing computer 10 will determine whether the individual wants to apply for any of the reported jobs. If, at step 211, it is determined that the individual does not want to apply for any of the reported jobs, the central processing computer 10 will, at step 212, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, up to this point, including the actions of the individual. The operation of the apparatus 100 will thereafter cease at step 213.

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If, at step 211, it is determined that the individual wants to apply for a reported job, the operation will proceed to step 214. At step 215, the individual data and/or information, whether specific, generic, and/or general, is transmitted to the employer and/or employer computer 30. Any data and/or information described as being transmitted between the parties, and/or between the respective computers, can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. The employer can review the data and/or information, at step 215, and transmit a response to the central processing computer 10 at step 216.

At step 217, the central processing computer 10 will process the employer's response and determine if the employer is interested in pursuing discussions with the individual. If, at step 217, it is determined that the employer is not interested in pursuing the individual, the central processing computer 10 will, at step 218, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point.

The data and/or information stored at step 218 is stored in the database 10H for later use or reference by any individual, employer, and/or operator or administrator of the apparatus 100. Some or all of the data and/or information stored in the database 10H may thereafter be transmitted to, and/or stored in, the database(s) 20H and/or 30H of the respective individual computer(s) 20 and/or employer computer(s) 30. The operation of the apparatus 100 will thereafter cease at step 219.

If, at step 217, it is determined that the employer is interested in pursuing discussions with the individual, then the central processing computer 10 will, at step 220, notify the individual by transmitting a message to the individual, and/or to the individual computer 20 associated with the individual, so notifying the individual. The individual can review the data and/or information, at step 220, and transmit a response to the central processing computer 10 at step 221. If the employer's response had included a request for additional and/or more specific data and/or information, such as, but not limited to, a resume, references, work samples, salary requirements, salary history, transcripts, and/or requests for authorization to obtain any of the above, and/or any other information of interest to the employer, the individual's response, at step 221, can include same and/or links to same. The operation of the apparatus will thereafter proceed to step 222.

At step 222, the central processing computer 10 will determine whether the individual is interested in pursuing the opportunity with the employer. If at step 222, it is determined that the individual is not interested in pursuing the opportunity, the central processing computer will, at step 223, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, operation of the apparatus will cease at step 224.

If, at step 222, it is determined that the individual is interested in pursuing the opportunity, the data and/or information in the individual's response will, at step 225, be

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transmitted to the employer and/or the employer computer 30 associated with the employer. The employer can review the data and/or information, at step 225, and transmit a response to the central processing computer 10 at step 226. The response can include information as to whether the employer is interested in pursuing discussions with the individual.

At step 227, the central processing computer 10 will process the employer's response in order to determine if the employer is still interested in pursuing the opportunity regarding the individual. If, at step 227, it is determined that the employer is not interested in pursuing the opportunity regarding the individual, the central processing computer 10 will, at step 228, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, the operation of the apparatus will cease at step 229.

If, at step 227, it is determined that the employer is interested in pursuing the opportunity with the individual, the central processing computer 10 will, at step 230, put the employer and the individual in contact with each other by transmitting contact information to either or both of the employer and/or the individual. The contact information may include the individual's name, address, telephone number, fax number, e-mail, and/or any other contact information for the individual, and/or the employer's name, address, person to contact, contact individual at the employer, telephone number, fax number, e-mail, and/or any other contact information for the employer. The employer and the individual may thereafter proceed with the interview, employment screening, and/or recruitment, processes.

At step 231, the central processing computer 10 can monitor the interview, employment screening, and/or recruitment, processes, which take place between the employer and the individual. At step 232, the central processing computer 10 will record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, any information concerning whether a deal has been reached between the parties, any information concerning offers, counteroffers, rejected offers and/or rejected counteroffers, the time and date of the consideration, along with any notes made by the employer or individual, up to this point.

The data and/or information stored at step 232 is stored in the database 10H for later use or reference by any individual, employer, and/or operator or administrator of the apparatus 100. Some or all of the data and/or information stored in the database 10H may thereafter be transmitted to, and/or be stored in, the database(s) 20H and/or 30H of the respective individual computer(s) 20 and/or employer computer(s) 30. The operation of the apparatus 100 will thereafter cease at step 233.

The operation of the apparatus 100 may be terminated by either the individual and/or the employer at any time. In this manner, a party may terminate discussions at any time. The individual and/or the employer may also, at any time, obtain information about, and/or perform research on, the opposite party by linking to said information and/or research via the central processing computer 10 and/or via links and/or hyperlinks which can be inserted in the various e-mails and/or electronic messages which are utilized and/or trans-



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mitted in conjunction with the present invention. The information and/or research can be obtained without interrupting the processing of the central processing computer 10. In this manner, a party may obtain information and/or research about the opposite party, at any time, and without interrupting the processing of the central processing computer 10.

The present invention in another preferred embodiment, can be utilized by an employer and/or hiring entity in order to search for and/or recruit individuals for jobs, employment positions, temporary assignments, projects, and/or freelance assignments, and/or for any other need. FIGS. 6A to 6E illustrate another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form. FIGS. 6A to 6E illustrate a method for using the apparatus 100, for assisting employers and/or hiring entities (hereinafter referred to as "employer") in searching for and/or for recruiting job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc. (hereinafter referred to collectively as "individual"), to fill jobs, employment positions, contracting jobs, temporary assignments, freelance assignments, and/or other needs.

The operation of the apparatus 100 commences at step 300. At step 301, the employer accesses the central processing computer 10 via the employer computer 30. The employer may, at step 302, enter data and/or information regarding its requirements and/or needs, including, but not limited to, those related to hiring needs, and/or its requirements concerning educational credentials, skills, work experience, objectives, and/or any other data and/or information pertinent to a fulfilling its needs. Step 302 may be dispensed with if this information has been entered by the employer previously. The data and/or information can be entered specifically and/or generically. If entered specifically, the employer can also enter generic data and/or information to preserve confidentiality, if desired.

Data and/or information may also be entered into the central processing computer 10 by uploading and/or downloading, whichever the case may be, job descriptions and/or hiring needs and/or any other pertinent data and/or information. Data and/or information may also be obtained via a questionnaire which may be provided and/or answered on-line. Any and/or all of such data and/or information may be stored in the database 10H.

The central processing computer 10 can also process the specific data and/or information in order to convert and/or separately store same as generic data and/or information. Any and all data and/or information stored at step 302, and/or previously, can be stored in the database 10H of the central processing computer 10 and/or in the databases 20H and/or 30H, respectively, of the individual computer 20 and/or the employer computer 30, as appropriate. At step 303, the employer can choose to have the search proceed with specific data and/or information and/or generic data and/or information.

If, at step 304, it is determined that a search with specific data and/or information is selected, the central processing computer 10 will proceed to step 305 and proceed with the specific data and/or information. Thereafter, the operation will proceed to step 307. If, however, at step 304, it is determined that a search with specific data and/or information is not selected, the central processing computer 10 will proceed to step 306 and proceed with the generic and/or general data and/or information. Thereafter, the operation will proceed to step 307.

At step 307, the employer will enter its recruitment search, including any search criteria, into the central pro-

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cessing computer 10 via the employer computer 30. At step 308, the central processing computer 10 will query the database of posted and/or listed individuals and generate a report or list of individuals who meet the employer's search criteria. At step 309, the central processing computer 10 will provide the employer with the report or list of available individuals either electronically and/or otherwise. The results of the search can also be provided to the employer by being displayed on the display device 30E and/or by being printed via the output device or printer 30I.

Thereafter, the employer will decide whether it wants to pursue any of the individuals identified in the search report. At step 310, the employer can transmit information to the central processing computer 10 regarding which, if any, of the reported individuals it wants to pursue. At step 311, the central processing computer 10 will determine whether the employer wants to pursue any of the individuals. If, at step 311, it is determined that the employer does not want to pursue any of the individuals, the central processing computer 10 will, at step 312, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, up to this point, including the actions of the employer. The operation of the apparatus 100 will thereafter cease at step 213.

If, at step 311, it is determined that the employer wants to pursue an individual, the operation will proceed to step 314. At step 315, the employer data and/or information, whether specific, generic, and/or general, is transmitted to the individual and/or individual computer 20. Any data and/or information described as being transmitted between the parties, and/or between the respective computers, can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. The individual can review the data and/or information, at step 315, and transmit a response to the central processing computer 10 at step 316.

At step 317, the central processing computer 10 will process the individual's response and determine if the individual is interested in pursuing discussions with the employer. If, at step 317, it is determined that the individual is not interested in pursuing the opportunity, the central processing computer 10 will, at step 318, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the individual or employer, up to this point.

The data and/or information stored at step 318 is stored in the database 10H for later use or reference by any individual, employer, and/or operator or administrator of the apparatus 100. Some or all of the data and/or information stored in the database 10H may thereafter be transmitted to, and/or stored in, the database(s) 20H and/or 30H of the respective individual computer(s) 20 and/or employer computer(s) 30. The operation of the apparatus 100 will thereafter cease at step 319.

If, at step 317, it is determined that the individual is interested in pursuing discussions with the employer, then the central processing computer 10 will, at step 320, notify the employer by transmitting a message to the employer, and/or to the employer computer 30 associated with the employer, so notifying the employer. The employer can review the data and/or information, at step 320, and transmit a response to the central processing computer 10 at step 321.

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If the individual's response had included a request for additional and/or more specific data and/or information, such as, but not limited to, job description, firm resume, references, work samples, salary and benefits information, and/or requests for authorization to obtain any of the above, and/or any other information of interest to the individual, the employer's response, at step 321, can include same and/or links to same. The operation of the apparatus will thereafter proceed to step 322.

At step 322, the central processing computer 10 will determine whether the employer is interested in pursuing the opportunity with the individual. If at step 322, it is determined that the employer is not interested in pursuing the opportunity, the central processing computer will, at step 323, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, operation of the apparatus will cease at step 324.

If, at step 322, it is determined that the employer is interested in pursuing the opportunity, the data and/or information in the employer's response will, at step 325, be transmitted to the individual and/or the individual computer 20 associated with the individual. The individual can review the data and/or information, at step 325, and transmit a response to the central processing computer 10 at step 326. The response can include information as to whether the individual is interested in pursuing discussions with the employer.

At step 327, the central processing computer 10 will process the individual's response in order to determine if the individual is still interested in pursuing the opportunity. If, at step 327, it is determined that the individual is not interested in pursuing the opportunity regarding the employer, the central processing computer 10 will, at step 328, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, the operation of the apparatus will cease at step 329.

If, at step 327, it is determined that the individual is interested in pursuing the opportunity with the employer, the central processing computer 10 will, at step 330, put the individual and the employer in contact with each other by transmitting contact information to either or both of the individual and/or the employer. The contact information may include the employer's name, address, person to contact, contact individual at the employer, telephone number, fax number, e-mail, and/or any other contact information for the employer and/or the individual's name, address, telephone number, fax number, e-mail, and/or any other contact information for the individual. The employer and the individual may thereafter proceed with the interview, employment screening, and/or recruitment, processes.

At step 331, the central processing computer 10 can monitor the interview, employment screening, and/or recruitment, processes, which take place between the employer and the individual. At step 332, the central processing computer 10 will record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including informa-

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tion concerning the employer, the individual, any information concerning whether a deal has been reached between the parties, any information concerning offers, counteroffers, rejected offers and/or rejected counteroffers, the time and date of the consideration, along with any notes made by the employer or the individual, up to this point.

The data and/or information stored at step 332 is stored in the database 10H for later use or reference by any employer, individual, and/or operator or administrator of the apparatus 100. Some or all of the data and/or information stored in the database 10H may thereafter be transmitted to, and/or be stored in, the database(s) 20H and/or 30H of the respective individual computer(s) 20 and/or employer computer(s) 30. The operation of the apparatus 100 will thereafter cease at step 333.

The operation of the apparatus 100 may be terminated by either the employer and/or the individual at any time. In this manner, a party may terminate discussions at any time. The employer and/or the individual may also, at any time, obtain information about, and/or perform research on, the opposite party by linking to said information and/or research via the central processing computer 10 and/or via links and/or hyperlinks which can be inserted in the various e-mails and/or electronic messages which are utilized and/or transmitted in conjunction with the present invention. The information and/or research can be obtained without interrupting the processing of the central processing computer 10. In this manner, a party may obtain information and/or research about the opposite party, at any time, and without interrupting the processing of the central processing computer 10.

In another preferred embodiment, the present invention can be utilized to provide notification of job openings and/or job, contracting, freelancing, and/or temporary position, opportunities, to an individual and/or group of individuals. In this embodiment, the central processing computer 10 can be manually activated, automatically activated, and/or programmed for automatic activation, so as to perform searches of, and for, job openings and/or job, contracting, freelancing, and/or temporary position, opportunities, and provide an individual and/or group of individuals with notification of the availability of same.

FIG. 7 illustrates another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form. In the embodiment of FIG. 7, the apparatus and method of the present invention is utilized so as to provide notification of job openings and/or job opportunities to an individual and/or a group of individuals. In this manner, the present invention can be utilized to inform an individual or individuals of job openings which may be of interest to him, her, or them, as the jobs or positions are posted and/or listed with the apparatus 100 by an employer and/or hiring entity.

In the embodiment of FIG. 7, an individual who desires to be notified of any of the herein described job openings, positions, assignments, contracts and/or projects, can list and/or provide their data and/or information, i.e., resume, educational qualifications, work experience, skills, references, work samples, and/or any other pertinent information, along with the type of job, work, project, and/or assignment, which they seek, with the apparatus 100 and, in particular, with the central processing computer 10, such as via the individual computer 20. Thereafter, the individual's data and/or information can be stored in the database 10H. Individuals posting or listing with the apparatus 100 may be subscribers, non-subscribers, and/or one-time and/or occasional or sporadic users of the apparatus 100.

The individual can also include information regarding the "searching event", the occurrence of which will trigger the

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central processing computer **10** to perform a job search for the individual and notify him or her of the results. The "searching event" can be pre-defined and/or be pre-specified as a date, a time, a time interval(s), a time period(s), events and/or occurrences.

The "searching event" can be requested by an individual, individuals, an employer, employers, a hiring entity or entities, and/or a recruiter, and may be defined as the occurrence of a new job posting by an employer and/or employers, upon the posting of new and/or revised data and/or information from an individual and/or group of individuals, upon a news release of certain business events, employment-related events, economic reports, industry-specific news, and/or any other event which may create an interest on behalf of an employer to fill a position, and/or for an individual to seek a position, and/or upon the occurrence of any recruitment initiating event, the happening of which will activate the central processing computer **10**. The central processing computer **10** will thereafter proceed to perform a job search of employers and/or jobs in order to identify jobs or opportunities which may be of interest to, and/or which may be a possible match for, the individual.

The individual can also provide information such as a telephone number(s), a facsimile number(s), a pager number (s), an electronic mail (e-mail) address or e-mail addresses, and/or any other information which will facilitate a communication from the central processing computer **10** to the individual and/or the individual computer **20** associated with the individual. In this manner, the central processing computer **10** can communicate job openings and/or other opportunities which may be requested and/or which may be of interest to the individual. An employer can also provide similar, and/or analogous information to the central processing computer **10**. Any and/or all of the data and/or information described herein as being provided by an individual, an employer, and/or a recruiter, can be stored in the database **10H**.

In the embodiment of FIG. 7, the apparatus **100** can be programmed so as to trigger the central processing computer **10** to perform a job search for an individual and, in this manner, any programmed job search activity and/or recruitment activity will commence upon the occurrence of the "searching event".

The operation of the apparatus **100** commences at step **400**. At step **401**, the searching event will occur thereby activating the central processing computer **10**. Thereafter, at step **402**, the central processing computer **10** will query the database **10H** in order to perform a job search for the individual. The central processing computer **10** will thereafter, at step **403**, generate a list or report of available jobs and/or employers which may meet the individual's criteria, which may be of interest to the individual, and/or which may be a possible match for the individual.

At step **404**, the list or report of jobs will be transmitted to the individual and/or to the individual computer **20** associated with the individual. The list or report can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. At step **405**, the job search process between the individual and the employer will then proceed in the manner described in steps **210** through **233** of FIG. 5, the description of which is hereby incorporated by reference herein. Thereafter, the operation of the apparatus **100** will cease at step **406**.

In another preferred embodiment, the present invention can be utilized to provide notification of individuals, inde-

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pendent contractors, freelancers, and/or temporary workers, who are available for job openings, projects, freelance assignments, and/or temporary assignments, to an employer and/or hiring entity and/or to a group of employers and/or hiring entities. In this embodiment, the central processing computer **10** can be manually activated, automatically activated, and/or programmed for automatic activation, so as to perform searches of, and for, individuals who may be candidates to fill the job openings and/or the requirements of the employers and/or hiring entities and provide an employer and/or group of employers with notification of the availability of these individuals.

FIG. 8 illustrates another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form. In the embodiment of FIG. 8, the apparatus and method of the present invention is utilized so as to provide notification of individuals, who are available for applying for, and/or for interviewing for, job, job opportunities, and/or employer needs, to an employer and/or a group of employers. In this manner, the present invention can be utilized to inform an employer or employers of individuals whom may be candidates for, may be recruiting prospects for, and/or who may be interested in being notified about, any of the employer's jobs, job opportunities, and/or needs, which are posted and/or listed with the apparatus **100** by the employer or a representative.

In the embodiment of FIG. 8, an employer who desires to be notified of an individual or individuals, who may be qualified and/or interested in filling a job or position, can list and/or provide data and/or information, regarding the job openings, project openings, freelance assignments, and/or temporary assignments, including descriptions thereof, as well as the credentials required for filling and/or for being offered the respective job opening, project opening, freelance assignment, and/or temporary assignment, with the central processing computer **10**.

The employer can also list and/or provide data and/or information about itself, a firm resume, salary structure, benefits packages, firm qualifications, firm references, work samples, and/or any other pertinent information, with the central processing computer **10**, such as via the employer computer **30**. Thereafter, the employer's data and/or information can be stored in the database **10H**. Employers posting or listing jobs with the apparatus **100** may be subscribers, non-subscribers, and/or one-time and/or occasional or sporadic users of the apparatus **100**.

The employer can also include information regarding the "searching event", the occurrence of which will trigger the central processing computer **10** to perform a recruitment search for the employer and notify the employer of the results. The "searching event" can be pre-defined and/or be pre-specified as a date, a time, a time interval(s), a time period(s), events and/or occurrences.

The "searching event" can be requested by an employer, employers, a hiring entity or entities, an individual, individuals, and/or a recruiter, and may be defined as the occurrence of a new job posting by an employer and/or employers, upon the posting of new and/or revised data and/or information from an individual and/or group of individuals, upon a news release of certain business events, employment-related events, economic reports, industry-specific news, and/or any other event which may create an interest on behalf of an employer to fill a position, and/or for an individual to seek a position, and/or upon the occurrence of any recruitment initiating event, the happening of which will activate the central processing computer **10**. The central



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processing computer **10** will thereafter proceed to perform a recruitment search of individuals in order to identify individuals whom may be interested in, and/or whom may be a possible match for, the employer.

The employer can also provide information such as a telephone number(s), a facsimile number(s), a pager number (s), an electronic mail (e-mail) address or e-mail addresses, and/or any other information which will facilitate a communication from the central processing computer **10** to the employer and/or the employer computer **30** associated with the employer. In this manner, the central processing computer **10** can communicate information regarding an individual and/or individuals whom may be of interest to the employer. An individual can also provide similar, and/or analogous information to the central processing computer **10**. Any and/or all of the data and/or information described herein as being provided by an employer, an individual, and/or a recruiter, can be stored in the database **10H**.

In the embodiment of FIG. **8**, the apparatus **100** can be programmed so as to trigger the central processing computer **10** to perform a recruitment search for an employer and, in this manner, any programmed recruitment search activity and/or recruitment activity will commence upon the occurrence of the "searching event".

The operation of the apparatus **100** commences at step **500**. At step **501**, the searching event will occur thereby activating the central processing computer **10**. Thereafter, at step **502**, the central processing computer **10** will query the database **10H** in order to perform a recruitment search for the employer. The central processing computer **10** will thereafter, at step **503**, generate a list or report of available individuals whom may meet the employer's criteria, which may be of interest to the employer, and/or which may be a possible match for the employer.

At step **504**, the list or report of individuals will be transmitted to the employer and/or to the employer computer **30** associated with the employer. The list or report can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. At step **505**, the recruitment search process between the employer and the individual will then proceed in the manner described in steps **310** through **333** of FIGS. **6A** to **6E**, the description of which is hereby incorporated by reference herein. Thereafter, the operation of the apparatus **100** will cease at step **506**.

In any and/or all of the embodiments described herein, any electronic messages, such as e-mails, electronic message transmissions, pager messages, telephone calls or messages, facsimile transmissions, etc., described herein, can be generated and/or transmitted to any of the respective parties, in real-time, thereby providing real-time message transmission and/or notification services.

In any and/or all of the embodiments described herein, any electronic messages, such as e-mails, electronic message transmissions, pager messages, telephone calls or messages, facsimile transmissions, etc., which are generated by the central processing computer **10**, by the individual computer **20**, and/or by the employer computer **30**, may contain appropriate hyperlinks, and/or forwarding information, to the party sending the electronic message and/or e-mail, to a third party, to other information, and/or to another information source. In this manner, for example, an e-mail message, transmitted from and/or on behalf of an employer to an individual, can contain a hyperlink(s) to the employer's web site or web page.

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The hyperlink(s) to the employer's web site or web page can provide the individual with a link to, and/or access to, information about the employer, links to a video presentation about the employer, the employer's departments, and/or any other information, video and/or photographs of the employer's facilities, information regarding certain employees, job descriptions, benefits, financial and operational data and/or information, salary information, travel-related service entities or travel agents for arranging travel to the employer for interview and/or other purposes, links to information sources regarding the locale and/or area where the employer is located, etc., and/or any other information which may be of interest to a job applicant and/or prospective employee.

Similarly, any electronic message and/or e-mail transmitted from and/or on the behalf of the individual can contain hyperlinks to additional data and/or information which may be of interest to the employer. This information may include the individual's resume, supplemental resume, supplemental information, references, letters of recommendation, links to the colleges, universities, and/or schools attended, links to pre-authorized letters/forms requesting transcripts from any schools attended, links to the registrar's office of the individual's schools, links to past employers, links to work samples, links to video presentations and/or a video clip of the individual and/or a photograph of the individual, and/or links to any other information which may be useful and/or desirable in the recruiting process.

In another preferred embodiment, including in any and/or all of the embodiments described herein, the present invention can be utilized in order to allow employers and/or hiring entities to bid for the services of individuals, independent contractors, temporary workers, and/or freelancers. In a similar and/or analogous manner, an individual, independent contractor, temporary worker, and/or freelancer, may offer and/or auction his, her, or its, services to employers and/or hiring entities. Applicant hereby incorporates by reference herein the subject matter of U.S. Provisional Patent Application Serial No. 60/120,883 which teaches an apparatus and method for effectuating commerce in a network environment., Applicant also hereby incorporates by reference herein the subject matter of U.S. Patent Application Serial No. 09/498,143 which teaches an apparatus and method for effectuating commerce in a network environment.

In this manner, bidding and auctioning activities, related to job search activities, recruitment activities, and/or recruitment-related activities, can be utilized in order to fill and/or to obtain any job, employment position, project, and/or assignment, described herein.

When utilized to perform bidding and/or auctioning activities, the respective employer or individual can direct their respective bidding activity or activities and/or auctioning activity or activities to any single, group of, and/or combination of any, party, parties, individual, individuals, employer, employers, and/or hiring entity or hiring entities. The bidding and/or auctioning activities can be directed to a party, parties, individual, individuals, employer, employers, and/or hiring entity or hiring entities, which may be specified by the respective initiating party and/or which may be obtained via any of the various search routines, described herein.

Any and/or all respective bidding activities and/or auctioning activities can be effected via e-mail messages, electronic message transmissions, pager messages, facsimile messages, telephone calls or messages, physical mail

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delivery, and/or via any other method, means and/or mode of communication.

Applicant hereby incorporates by reference herein the subject matter of U.S. Pat. No. 5,862,223 which teaches a method and apparatus for a cryptographically-assisted commercial network system designed to facilitate and support expert-based commerce; the subject matter of U.S. Pat. No. 5,797,127 which teaches a method, apparatus, and program for pricing, selling, and exercising options to purchase airline tickets; and U.S. Pat. No. 5,794,207 which teaches a method and apparatus for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers.

Applicant also hereby incorporates by reference herein the subject matter of U.S. Pat. No. 5,884,272 which teaches a method and system for establishing and maintaining user-controlled anonymous communications; U.S. Pat. No. 5,884,270 which teaches a method and system for facilitating an employment search incorporating user-controlled anonymous communications; U.S. Pat. No. 5,832,497 which teaches an electronic automated information exchange and management system; U.S. Pat. No. 5,758,324 which teaches a resume storage and retrieval system; U.S. Pat. No. 5,696,702 which teaches a time and work tracker; U.S. Pat. No. 5,416,694 which teaches a computer-based data integration and management process for workforce planning and occupational readjustment; and U.S. Pat. No. 5,164,897 which teaches an automated method for selecting personnel matched job criteria.

In another preferred embodiment, including in any and/or all of the embodiments described herein, the present invention can be utilized for providing scheduling services for, and/or on behalf of, any of the individuals and/or employers described herein. In this embodiment, the present invention can maintain work schedules, and/or scheduling data and/or information, of and for individuals, independent contractors, temporary workers, and/or freelancers. The present invention can also maintain the work schedules, and/or scheduling data and/or information, of and for employers and/or hiring entities, including dates and/or times when the employer and/or hiring entity will, or may, be in need of help or assistance which can be provided by any of the individuals, independent contractors, temporary workers, and/or freelancers described herein.

The above-described schedules, and/or scheduling data and/or information, can be stored in the database 10H of the central processing computer 10. The schedules, and/or scheduling data and/or information, can also be stored and/or provided at any of the respective individual computers 20 and/or employer computers 30 described herein, and/or may be stored in any of the respective databases 20H and/or 30H.

An employer may utilize the schedules and/or scheduling data and/or information in order to reserve, engage, and/or request, the services of an individual. An employer can access the central processing computer 10 and access data and/or information concerning the work schedules of a certain individual and/or the work schedules of any number of individuals. The individual or individuals may be identified via a recruitment search as described herein and/or may be an individual and/or individuals already known by the employer and/or recommended to the employer. The employer may review the schedules and/or scheduling data and/or information until it identifies an individual and/or individuals who is or are acceptable and available for the dates and/or times, as well as places, needed by the employer.

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Once the employer locates an individual and/or individuals, the employer can reserve, engage, and/or request, the services of the individual or individuals by transmitting an appropriate message from the employer computer 30 to the central processing computer 10. The message can include the amount which the employer is willing to pay for the individual's services. Thereafter, the central processing computer 10 will transmit a message to the individual computer(s) 20 associated with the individual or individuals, and/or otherwise notify the individual or individual.

The individual or individuals may receive the message in real-time and/or otherwise. The individual or individuals may thereafter confirm the reservation, agree to the engagement, and/or reply to the request, respectively, via transmitting a message from the individual computer 20 to the central processing computer 10. Thereafter, the central processing computer 10 will transmit a message to the employer computer 30 of the employer, thereby notifying the employer of the confirmed reservation, the confirmed agreement to the engagement, and/or the reply, respectively. Thereafter, the employer and the individual or individuals can be put into contact with one another and/or contact one another as they see fit.

In another embodiment, the central processing computer 10 can be programmed to confirm a reservation, agree to an engagement, and/or issue a reply, respectively, for, or on behalf, of an individual or individuals.

In another preferred embodiment, the central processing computer 10 can be programmed to provide an employer with conditions under which the individual and/or individuals will agree to a reservation, an engagement, and/or a request. One of these conditions can include payment in advance, a down payment, and/or an option payment, for the services of the individual or individuals. In this embodiment, the central processing computer 10 can administer and/or maintain a financial account for, or on behalf of any of, the individuals and/or employers described herein. The financial accounts may be bank accounts, electronic money accounts, credit accounts, debit account, and/or any other accounts for facilitating financial transactions. The central processing computer 10 can make a payment and/or transfer, on behalf of an employer, from the employer's account, to an individual's account or to accounts of individuals, thereby receiving payment for, or on behalf of, the individual or individuals, whichever the case may be.

As noted above, the employer may also secure and/or reserve the services of an individual, by purchasing an option from the individual, or person or entity representing the individual, for the respective individual's services, with the price of said option being determined by using conventional financial options pricing models and/or methods. Applicant hereby incorporates by reference herein the subject matter of *Options, Futures, and Other Derivatives*, Third Edition, by John C. Hull, Prentice Hall, 1997.

An individual may utilize the schedules and/or scheduling data and/or information in order to offer services to an employer. An individual can access the central processing computer 10 and access data and/or information concerning the work schedules or needs of an employer or any number of employers. The employer or employers may be identified via a job search as described herein and/or may be an employer and/or employers already known by the individual and/or recommended to the individual. The individual may review the schedules and/or scheduling data and/or information, until it identifies an employer and/or employers may be in need of the individuals services.



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Once the individual locates an employer and/or employers, the individual can offer the individual's services to the employer or employers by transmitting an appropriate message from the individual computer **20** to the central processing computer **10**. The message or offer can include the individual's fee or the amount of charge for the services. Thereafter, the central processing computer **10** will transmit a message to the employer computer(s) **30** associated with the employer or employers, and/or otherwise notify the employer or employers.

The employer or employers may receive the message in real-time and/or otherwise. The employer or employers may thereafter accept or reject the offer via transmitting a message from the employer computer **30** to the central processing computer **10**. Thereafter, the central processing computer **10** will transmit a message to the individual computer **20** of the individual, thereby notifying the individual of the acceptance or rejection of its offer. Thereafter, the individual and the employer or employers can be put into contact with one another and/or contact one another as they see fit.

In another embodiment, the central processing computer **10** can be programmed to accept or reject, an offer to provide services, for, or on behalf, of an employer or employers.

In another preferred embodiment, the central processing computer **10** can be programmed to provide an individual with conditions under which the employer and/or employers will accept an offer. One of these conditions can be that a bond or guarantee must be posted for guaranteeing that the services will be performed as agreed upon. In this embodiment, the central processing computer **10** can administer and/or maintain a financial account for, or on behalf of any of, the individuals and/or employers described herein.

The financial accounts may be bank accounts, electronic money accounts, credit accounts, debit account, and/or any other accounts for facilitating financial transactions. The central processing computer **10** can make a payment and/or transfer, on behalf of an individual, from the individual's account, to an employer's account or to accounts of employers, thereby receiving payment for, or on behalf of, the employer or employers, whichever the case may be.

The individual may also secure a job, position, project, and/or assignment, by purchasing an option for same from the employer, or a representative of the employer, with the price of said option being determined by using conventional financial options pricing models and/or methods.

In another preferred embodiment, as well as in any and/or all of the embodiments described herein, the present invention can generate electronic catalogs and/or electronic coupons for use by employers, to publicize and/or to advertise jobs, employment positions, projects and/or assignments, which they wish to fill, and/or by individuals, employment agencies and/or their agents and/or representatives, to publicize and/or to advertise their services, and/or the services of those who they represent, as well as their respective availability and/or desire to perform and/or to fill and/or assume a job, employment position, project and/or assignment.

In this manner, an employer can generate and/or distribute electronic catalogs and/or electronic coupons, thereby publicizing and/or advertising any jobs, positions, projects and/or assignments, and electronically distribute same to individuals and/or employment agencies who or which can be identified by querying the database **10H** and/or by utilizing any other appropriate search method and/or criteria. Individuals, and/or their representative(s), and/or employment agencies, may generate and/or distribute electronic

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catalogs and/or electronic coupons in order to publicize and/or to advertise the individuals credentials, services, availability, and/or desire, to fill or assume a job, position, project, and/or assignment, to employers and/or hiring entities.

Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. Provisional Patent Application Serial No. 60/137,689 which teaches an apparatus and method for providing an electronic catalog and/or an electronic coupon. Applicant also hereby incorporates by reference herein the subject matter and teachings of U.S. patent application Ser. No. 09/579,358 which teaches an apparatus and method for providing an electronic catalog and/or an electronic coupon.

Any and/or all of the electronic catalogs and/or electronic coupons described herein can be generated and/or transmitted as e-mail messages and/or electronic message transmissions and can include text information, resume information, video information and/or audio information.

Any and/or all of the electronic catalogs and/or electronic coupons described herein can be generated automatically by the central processing computer **10** and/or by any individual computers **20** and/or employer computers **30**. Any of the central processing computer **10**, the individual computer(s) **20** and/or the employer computer(s) **30** can be programmed to generate and/or to transmit any of the e-mails, electronic message transmissions, electronic catalogs and/or electronic coupons described herein.

In another preferred embodiment, the apparatus and method of the present invention can be utilized for performing and/or for facilitating the provision of recruitment services for schools, colleges, universities, and/or any organizations of any kind. In this embodiment, information in the form of text messages, video messages, audio messages, video clips, audio clips, infomercials, electronic catalogs, e-mail messages, etc., for publicizing and/or for promoting any of the herein-described schools, colleges, universities, and/or any organizations of any kind, can be stored at the central processing computer **10** and can be provided to any individuals who or which utilizes the apparatus and method of the present invention.

The apparatus and method of the present invention can also provide and/or facilitate the provision of any of the herein-described recruiting and/or recruitment services for attracting individuals to, and/or recruiting individuals for, any of the respective schools, colleges, universities, and/or any organizations of any kind.

Any and/or all of the e-mails, electronic message transmissions, electronic catalogs and/or electronic coupons, described herein, can be generated, transmitted and/or distributed, in response to a posting of a new job, a new employment position, a new project, and/or a new assignment, a listing and/or a posting of an individual(s), changes to the employment status, resume, skills, educational status, etc., of an individual(s), the occurrence of an event concerning the economy, the work needs of individuals, the needs of employers and/or hiring entities, and/or at specific times, at specified time intervals, and/or upon the occurrence of any event and/or occurrence which can be the basis for initiating a job search and/or a recruitment search.

In another preferred embodiment, as well as in any of the embodiments described herein, intelligent agents, software agents, mobile agents, and/or related technologies, can be utilized in conjunction with the present invention. The respective intelligent agent(s), software agent(s), mobile

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agent(s), (hereinafter referred to collectively as "intelligent agent" or "intelligent agents") can be programmed and/or designed to act on behalf of a respective individual, employer and/or hiring entity, so as to perform any of the job searches, recruitment searches, and/or any of the other activities and/or functions described herein. The intelligent agent can act on behalf of the individual, employer and/or hiring entity, in various related interactions, negotiations, and/or other activities which are described as being performed herein and/or which may be incidental and/or related thereto.

An individual can utilize an intelligent agent(s) in order to find, identify, and/or locate a job, position, project and/or assignment. In a similar and/or an analogous manner, the employer and/or hiring entity can utilize an intelligent agent(s) in order to find and/or locate individuals to fill a job, position, project and/or assignment.

Applicant hereby incorporates by reference herein the subject matter of the *Agent Sourcebook, A Complete Guide to Desktop, Internet and Intranet Agents*, by Alper Caglayan and Colin Harrison, Wiley Computer Publishing, 1997. Applicant also incorporates by reference herein the subject matter of *Cool Intelligent Agents For The Net*, by Leslie L. Lesnick with Ralph E. Moore, IDG Books Worldwide, Inc. 1997.

In any and/or all of the embodiments described herein, the present invention can provide links and/or hyperlinks, on-line, on-screen, in e-mail messages and/or in electronic message transmissions, and/or otherwise, to any and/or all products and/or services related to job searching and/or recruiting. For example, the present invention can provide links to information regarding the location of an employer, links to a travel agent, links to transportation companies, rental car companies, hotels and other lodging establishments, as well as links to resume services, employment agencies, recruiters, temporary agencies, etc.

The present invention can also provide links to attorneys, banks, financial institutions, insurance companies, bonding companies, etc., and/or other individuals and/or entities, the services of whom or which may be needed and/or may be recommended when hiring an individual, an independent contractor, a temporary worker, and/or a freelancer, and/or when accepting and/or assuming responsibility, respectively, for a job, a position, a project and/or an assignment.

The present invention can also provide for the automatic notification of job openings, position openings, projects, and/or assignments, the availability of individuals, job applicants, independent contractors, and/or freelancers, and/or the availability of goods and/or service providers, to any of the respective parties described herein who may utilize the present invention.

In another preferred embodiment, as well as in any and/or all of the embodiments described herein, the present invention can provide an individual, employer and/or hiring entity, with data and/or information concerning attrition rates at individual employers and/or hiring entities, as well as salary information, including salary surveys for particular jobs, professions, etc., including salary, benefits, and/or other compensation, data and/or information for various experience levels, skill levels, skills and abilities, educational credentials, and/or other data and/or information which may be utilized by the individuals, employers and/or employer entities, and/or recruiters, described herein.

The above-described data and/or information can be provided by job or profession type, by market sector, by type of employer, and/or by location and/or geographic region. For

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example, an individual may utilize the data and/or information provided by the present invention in order to determine what compensation the market will bear for his or her credentials and/or skill levels. An employer can also utilize this information in order to be competitive in its recruitment efforts and/or for otherwise attracting talented individuals.

The present invention can also provide an individual, an employer and/or hiring entity, and/or a recruiter, with data and/or information regarding the latest developments and/or current developments in the employment and/or recruiting fields, including, but not limited to, growth areas, demand information for certain jobs and/or professions, etc. For example, an individual can utilize this information in order to determine whether retraining is needed in order to attain a certain position and/or to ascertain the latest growth areas for certain jobs, careers and/or professions. An employer can utilize this information in order to determine the state of the job market and utilize the information as it sees fit.

The present invention can also be utilized in order to provide notification to any of the individuals, employers and/or hiring entities, described herein, that information is being, and/or has been, requested about them. The present invention can also provide the identity of the requesting party to the respective individual, employer and/or hiring entity. For example, an individual can be notified that company A has requested information about him or her. Similarly, an employer can be notified that an individual and/or a certain individual has requested information about it. The present invention may also maintain any and/or all information requests as confidential, if so requested.

In this embodiment, any and/or all of the data and/or information described herein, may be provided, requested, and/or accessed, by any of the respective parties. Any such notification embodiments can also provide for the blockage of any such notification by a requesting party. Also, any, and/or all information utilized and/or provided in any such notification embodiments can also be provided as group information, generic information, and/or as information representative of a group, or a trend.

In any and/or all of the embodiments described herein, the present invention can also provide data and/or information, which may be transmitted and/or provided to any of the respective individuals, employers and/or hiring entities, to any number of, or groups of, third party or other individuals, employers, and/or hiring entities.

The present invention can be utilized by any individual, employer and/or hiring entity. The present invention can also be utilized by a recruiter, a recruiting entity, a headhunter, an agent, an employment agency, etc., in representing an individual, an independent contractor, and/or a freelancer. For example, a recruiter can utilize the present invention in order to assist others in finding jobs, positions, projects and/or assignments, and/or to assist employers and/or hiring entities to find individuals to fill jobs, positions, projects and/or assignments.

The present invention can also be utilized in order to prevent certain individuals and/or entities, employers and/or hiring entities, from accessing the data and/or information about any other individual, entity, employer, and/or hiring entity. For example, an individual can prevent access, to his or her data and/or information, by a present employer, a past employer, and/or any other individual, entity, employer and/or hiring entity identified by the individual, specifically, generically, and/or generally. In this manner, an individual can prevent a present employer and/or any other individual, entity, employer and/or hiring entity, from learning about his

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or her job search and/or availability. Similarly, an employer and/or hiring entity can prevent certain individuals, entities, employers, and/or hiring entities, from learning of its recruitment efforts and/or human resource and/or employment needs.

Access restrictions to any data and/or information can be effected by utilizing any data and/or information security and/or access prevention methods, technologies and/or techniques, known by those skilled in the pertinent arts.

In any and/or all of the herein-described embodiments, the operation of the present invention may be triggered by any type of pre-specified event and/or occurrence which may include a new individual listing, a new employer and/or hiring entity listing, a departure of an individual from the employ of another, the completion of a job, project and/or assignment, changes in an economic factor(s), changes in a market factor(s), an increase in an unemployment rate, the unemployment of an individual, a detected need for jobs of a certain skill, and/or any other event, situation, and/or occurrence which may be pertinent and/or related to job searching efforts and/or recruitment efforts.

The apparatus of the present invention, in any and/or all of the embodiments described herein, can also be programmed to be self-activating and/or activated automatically.

The apparatus of the present invention can also be programmed in order to automatically generate and/or transmit any of the e-mails, electronic message transmissions, electronic notification transmissions, and/or any of the communications, which are described herein, between any of the parties which utilize the present invention.

In another preferred embodiment, as well as in any and/or all of the embodiments described herein, the present invention can be utilized in order to monitor, record, and/or keep track of, any offers and/or rejections of offers, involving any jobs, employment positions, projects and/or assignments, which occur in conjunction with and/or via use of the present invention. The information which is obtained can thereafter be provided to individuals, employers, and/or recruiters, for utilization in any appropriate and/or suitable manner.

In any and/or all of the embodiments described herein, any individual and/or employer data and/or information can be stored with various and/or varying levels of specificity and/or confidentiality. In this manner, any of the data and/or information described herein, can be filtered, can be released at varying times, depending upon the interest and/or comfort levels of the parties, and/or can be maintained as confidential. In this manner, the respective parties can maintain confidentiality and/or can exercise control over the nature and amount of data and/or information which can be released about themselves.

The apparatus and/or method of the present invention can be utilized as an electronic and/or network-based job searching and/or recruitment searching apparatus and/or clearing-house. Applicant hereby incorporates by reference herein the subject matter of U.S. Provisional Patent Application Serial No. 60/132,301 which teaches an apparatus and method for monitoring an advertisement and/or an advertisement location.

In any and/or all of the embodiments described herein, any interactions, negotiations, and/or deals reached, between any of the parties, can be monitored and/or be recorded by the central processing computer **10** and be stored in the database **10H**. In this regard, any interviews, interactions, communications, actions and responses thereto, offers, counter-offers, acceptances and/or rejections, can be

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recorded and/or be stored and utilized in any manner consistent with the operation and/or use of the present invention as described herein.

The present invention, in any and/or all of the herein-described embodiments, can utilize electronic commerce technologies and security methods, techniques and technologies, as described and as set forth in *Electronic Commerce Technical, Business, and Legal Issues*, Nabil R. Adam, et al. Prentice Hall, 1999 and *Web Security & Commerce*, Simson Garfinkel with Gene Spafford, O'Reilly 1997, the subject matter of which are hereby incorporated by reference herein.

The communications networks and/or systems on, or over, which the present invention may be utilized, can include any one or combination of telecommunication networks or systems, satellite communication networks or systems, radio communication networks or systems, digital communication networks or systems, digital satellite communication networks or systems, personal communications services networks or systems, cable television networks or systems, broadband communication networks or systems, low earth orbiting satellite (LEOs) networks or systems, as well as in, or on any internets and/or intranets, the Internet, the World Wide Web, and any other suitable communication network or system.

Any and/or all of the data and/or information described herein can be compiled and processed using statistical calculations in order to update the stored data and/or information with such data and/or information being made available to the respective individuals, employers and/or hiring entities, who or which utilize the present invention.

Any and/or all of the data and/or information described herein, which is stored in the database **10H**, or in the collection of databases, can be linked via relational database techniques and/or via any appropriate database management techniques. The data and/or information, in the preferred embodiments, can be updated via inputs from the respective individuals, employers and/or hiring entities, and/or administrator or operator of the apparatus **100** and/or the central processing computer **10**. The above-described updates can also be provided from other information sources via the communication network.

The data and/or information stored in the database **10H**, or in the collection of databases, and/or any other databases utilized in conjunction with the present invention, can be updated by each of the respective individuals, employers and/or hiring entities, and/or administrator or operator of the apparatus **100** or the central processing computer **10**, in real-time, and/or via dynamically linked database management techniques.

The data and/or information which is stored in the database **10H** and/or which may be otherwise utilized with, and/or in conjunction with, the apparatus and method of the present invention, can be linked via any suitable data linking techniques such as, for example, dynamically linked lists (DLLs), linked lists, and object links embedded (OLE's). Any suitable database management technique(s) may also be utilized in conjunction with the present invention.

The present invention can be utilized in conjunction with job searches, recruitment searches, and/or related activities, for any kind of job, service, vocation, profession, employment position, independent contractor project, project, freelance assignment, assignment, and/or any other kind or variety of work or services, permanent and/or temporary, and/or regardless of duration and/or type.

The present invention provides an apparatus and a method for providing automated job searching services, recruitment



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services, and/or employment agent and/or agency services, in a network environment, while reducing the time, expense and effort needed in performing these services.

The present invention can also be utilized in conjunction with electronic catalogs and/or electronic coupons in order to provide electronic catalogs and/or electronic coupons containing information regarding any of the job search applicants, prospective employees, independent contractors, employers, assignments, available jobs or positions, contract positions, contracting assignments, employment agency services, and/or other individuals and/or entities described herein, so as to advertise the availability or existence of the respective individuals and/or entities. Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. Provisional Patent Application Serial No. 60/137,689 entitled "APPARATUS AND METHOD FOR PROVIDING AN ELECTRONIC CATALOG AND/OR AN ELECTRONIC COUPON". Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. patent application Ser. No. 09/579,358 entitled "APPARATUS AND METHOD FOR PROVIDING AN ELECTRONIC CATALOG AND/OR AN ELECTRONIC COUPON".

The present invention can be utilized in conjunction with any job, assignment, position, employment position, service, contracting assignment, and/or any independent contracting position and/or freelance position, which can be the subject of commerce.

The present invention can be utilized, in any and/or all of the embodiments described herein, in conjunction with the buying, selling, bartering and/or trading, of services between the various parties, individuals, employers, and/or hiring entities described herein.

The present invention can be utilized in order to reduce recruiting efforts, costs and fees, such as headhunter fees, agency fees, broker fees, and/or representative fees, and can eliminate the inefficiencies which may result from dealing with intermediaries in job search efforts and/or recruitment efforts.

The present invention also provides an apparatus and a method for providing enhanced confidentiality during job search activities, assignment search activities, recruitment activities, and/or related activities, interactions, negotiations and/or other dealings, between the respective parties involved.

While the present invention has been described and illustrated in various preferred and alternate embodiments, such descriptions are merely illustrative of the present invention and are not to be construed to be limitations thereof. In this regard, the present invention encompasses all modifications, variations and/or alternate embodiments, with the scope of the present invention being limited only by the claims which follow.

What is claimed is:

1. An apparatus for providing recruitment information, comprising:

- a memory device for storing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and information regarding a job search request;
- a processing device for processing information regarding the job search request upon a detection of an occurrence of a searching event, wherein the processing device is programmed to detect the occurrence of the searching event, wherein the processing device utilizes information regarding the at least one of a job opening,

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a position, an assignment, a contract, and a project, stored in the memory device, and further wherein the processing device generates a message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is responsive to the job search request; and

a transmitter for transmitting the message to a communication device associated with an individual, wherein the message is transmitted to the communication device in real-time.

2. The apparatus of claim 1, wherein the communication device is at least one of a personal computer, a hand-held computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and a watch.

3. The apparatus of claim 1, wherein the apparatus is activated automatically upon the occurrence of the searching event.

4. The apparatus of claim 1, wherein the information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, is transmitted to the receiver from a second communication device associated with an employer or hiring entity, and further wherein the information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, is automatically received by the receiver and automatically stored in the memory device.

5. The apparatus of claim 1, wherein the information regarding the job search request is transmitted to the receiver from at least one of the communication device and a third communication device associated with the individual, and further wherein the information regarding the job search request is automatically received by the receiver and automatically stored in the memory device.

6. The apparatus of claim 1, wherein the information regarding the job search request contains at least one of job search information, information regarding an individual, and information regarding at least one of an individual's resume, an individual's educational qualifications, an individual's work experience, an individual's reference, an individual's work sample, a type of at least one of a job, a work, a project, and an assignment, sought by an individual, and an individual's contact information.

7. The apparatus of claim 1, wherein the searching event is at least one of an occurrence of a new job posting by an employer or hiring entity, a posting of new or revised data or information from an individual or group of individuals, a news release of a certain business event, an employment-related event, an economic report, an industry-specific new event, an event which creates an interest by an employer or hiring entity to fill a position, an event which creates an interest by an individual to seek a position, an occurrence of a recruitment initiating event, and a pre-defined or pre-specified at least one of date, time, time interval, and time period.

8. The apparatus of claim 1, wherein the message is transmitted as at least one of an electronic message transmission, a telephone call, a telephone message, a facsimile transmission, and a pager message.

9. The apparatus of claim 1, wherein the message is transmitted as an e-mail message.

10. The apparatus of claim 1, wherein the message contains at least one of an electronic catalog, text information, video information, and audio information.

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11. The apparatus of claim 1, wherein the message contains at least one of a hyperlink and a link to at least one of an employer's web site, an employer's web page, information about an employer, a video presentation about an employer, an employer's department, a video or photograph of an employer's facilities, information regarding a certain employee or employees, a job description, at least one of a benefit, a financial, and an operational, data or information, salary information, a travel-related service entity, a travel agent, and an information source regarding a locale or area where an employer is located.

12. The apparatus of claim 1, wherein the apparatus is utilized on or over at least one of the Internet, the World Wide Web, and a wireless communication network.

13. An apparatus for providing recruitment information, comprising:

- a memory device for storing information regarding at least one individual available for at least one of applying for and interviewing for at least one of a job, a job opportunity, and a hiring need, of an employer or hiring entity, and information regarding a recruitment search request associated with an employer or hiring entity;
- a processing device for processing information regarding the recruitment search request upon a detection of an occurrence of a searching event, wherein the processing device is programmed to detect the occurrence of the searching event, wherein the processing device utilizes information regarding the at least one individual stored in the memory device, and further wherein the processing device generates a message containing information regarding the at least one individual, wherein the message is responsive to the recruitment search request; and
- a transmitter for transmitting the message to a communication device associated with the employer or hiring entity, wherein the message is transmitted to the communication device in real-time.

14. The apparatus of claim 13, wherein the communication device is at least one of a personal computer, a handheld computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and a watch.

15. The apparatus of claim 13, wherein the apparatus is activated automatically upon the occurrence of the searching event.

16. The apparatus of claim 13, wherein the information regarding the at least one individual available for at least one of applying for and interviewing for at least one of a job, a job opportunity, and a hiring need, is transmitted to the receiver from a second communication device associated with the at least one individual, and further wherein the information regarding the at least one individual available for at least one of applying for and interviewing for at least one of a job, a job opportunity, and a hiring need, is automatically received by the receiver and automatically stored in the memory device.

17. The apparatus of claim 13, wherein the apparatus is a computer associated with at least one of the employer or hiring entity and a recruiter.

18. The apparatus of claim 13, wherein the information regarding the recruitment search request contains at least one of information regarding at least one of a job opening, a project opening, a freelance assignment, and a temporary assignment, information regarding a credential required for the at least one of a job opening, a project opening, a

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freelance assignment, and a temporary assignment, information about the employer or hiring entity, a firm resume, a salary structure, a benefits package, a firm qualification, a firm reference, and a work sample.

19. The apparatus of claim 13, wherein the searching event is at least one of an occurrence of a new job posting by an employer or hiring entity, a posting of new or revised data or information from an individual or group of individuals, a news release of a certain business event, an employment-related event, an economic report, an industry-specific new event, an event which creates an interest by an employer to fill a position, an event which creates an interest by an individual to seek a position, an occurrence of a recruitment initiating event, and a pre-defined or pre-specified at least one of date, time, time interval, and time period.

20. The apparatus of claim 13, wherein the message is transmitted as at least one an electronic message transmission, a telephone call, a telephone message, a facsimile transmission, and a pager message.

21. The apparatus of claim 13, wherein the message is transmitted as an e-mail message.

22. The apparatus of claim 13, wherein the message contains at least one of an electronic catalog, text information, video information, and audio information.

23. The apparatus of claim 13, wherein the message contains at least one of a hyperlink and a link to at least one of an individual's reference, an individual's letter of recommendation, a link to at least one of a college, a university, and a school, attended by an individual, a pre-authorized request form for a transcript from a school attended by an individual, a registrar's office of an individual's school, a past employer, a work sample, a video presentation or a video clip of an individual, and a photograph of the individual.

24. The apparatus of claim 13, wherein the apparatus is utilized on or over at least one of the Internet, the World Wide Web, and a wireless communication network.

25. An apparatus for providing recruitment information, comprising:

- a memory device for storing at least one of work schedule information and scheduling information for at least one of an individual, an independent contractor, a temporary worker, and a freelancer;
- a receiver for receiving a first request, wherein the first request contains information regarding a request to obtain at least one of work schedule information and scheduling information for the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, wherein the first request is received from a first communication device associated with an employer or hiring entity;
- a processing device for processing information contained in the first request, wherein the processing device generates a first message containing the at least one of work schedule information and scheduling information for the at least one of an individual, an independent contractor, a temporary worker, and a freelancer; and
- a transmitter for transmitting the first message to the first communication device, wherein the receiver receives a second request, wherein the second request contains information for at least one of reserving, engaging, and requesting, the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, wherein at least one of the processing device processes the information contained in the

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second request and at least one of reserves, engages, and requests, the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, the processing device generates a second message containing information regarding the second request, and the transmitter transmits a second message containing information regarding the second request to a second communication device associated with the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

26. The apparatus of claim 25, wherein the memory device stores at least one of work schedule information and scheduling information for a plurality of at least one of individuals, independent contractors, temporary workers, and freelancers.

27. The apparatus of claim 25, wherein the processing devices processes information regarding a search to identify the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

28. The apparatus of claim 25, wherein the second request contains information regarding an amount the employer or hiring entity is willing to pay the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

29. The apparatus of claim 25, wherein the receiver receives a reply message transmitted from the second communication device, wherein the reply message contains information regarding at least one of a confirmation of the reservation, an agreement to the engagement, and a reply to the request, wherein the transmitter transmits a second reply message to the first communication device, wherein the second reply message contains information regarding at least one of the confirmed reservation, the confirmed agreement to the engagement, and the reply to the request.

30. The apparatus of claim 25, wherein the apparatus is programmed to at least one of confirm the reservation, agree-to an engagement, and issue a reply, for or one behalf of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

31. The apparatus of claim 25, wherein the apparatus is programmed to provide information regarding at least one of a condition under which the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, will agree to at least one of a reservation, an engagement, and a request, a payment in advance, a down payment, and an option payment, regarding the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

32. The apparatus of claim 25, wherein the apparatus processes information for allowing the employer or hiring entity to purchase an option for the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

33. The apparatus of claim 25, wherein the apparatus at least one of makes a payment or transfer from a financial account associated with the employer or hiring entity, receives a payment for a financial account associated with the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, and administers a financial account for at least one of the employer or hiring entity and the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

34. The apparatus of claim 25, wherein the apparatus is utilized on or over at least one of the Internet and the World Wide Web.

35. The apparatus of claim 25, wherein the apparatus is utilized with a wireless communication network.

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36. The apparatus of claim 25, wherein the apparatus processes information regarding a bidding activity for services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

37. The apparatus of claim 25, wherein at least one of the first communication device and the second communication device is at least one of a personal computer, a hand-held computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and a watch.

38. An apparatus for providing recruitment information, comprising:

a memory device for storing at least one of work schedule information and scheduling information for an employer or hiring entity;

a receiver for receiving a first request, wherein the first request is a request to obtain at least one of work schedule information and scheduling information for the employer or hiring entity, wherein the first request is received from a first communication device associated with at least one of an individual, an independent contractor, a temporary worker, and a freelancer;

a processing device for processing information contained in the first request, wherein the processing device generates a first message containing the at least one of work schedule information and scheduling information for the employer or hiring entity; and

a transmitter for transmitting the first message to the first communication device,

wherein the receiver receives a second request, wherein the second request contains information regarding an offer to provide the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, to the employer or hiring entity, wherein at least one of the processing device processes the information contained in the second request and at least one of accepts or rejects the offer, the processing device generates a second message containing information regarding the offer, and the transmitter transmits a second message containing information regarding the offer to a second communication device associated with the employer or hiring entity.

39. The apparatus of claim 28, wherein the memory device stores at least one of work schedule information and scheduling information for a plurality of employers or hiring entities, wherein the at least one of work schedule information and scheduling information contains information regarding at least one of a date and a time when the employer or hiring entity will be in need of a service capable of being provided by the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

40. The apparatus of claim 38, wherein the processing devices processes information regarding a search to identify the employer or hiring entity.

41. The apparatus of claim 38, wherein the second request contains information regarding a fee or charge for the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

42. The apparatus of claim 38, wherein the receiver receives a reply message transmitted from the second communication device, wherein the reply message contains information regarding an acceptance of the offer or a rejection of the offer, wherein the transmitter transmits a second reply message to the first communication device, wherein



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the second reply message contains information regarding the acceptance of the offer or the rejection of the offer.

43. The apparatus of claim 38, wherein the god p apparatus is programmed to at least one of accept the offer or reject the offer for or on behalf of the employer or hiring entity.

44. The apparatus of claim 38, wherein the apparatus is programmed to provide information regarding at least one of a condition under which the employer or hiring entity will accept an offer, a reply, and a bond or a guarantee that a service will be performed.

45. The apparatus of claim 38, wherein the apparatus processes information for allowing the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, to purchase an option for at least one of a job, a position, a project, and an assignment, with the employer or hiring entity.

46. The apparatus of claim 38, wherein the apparatus at least one of makes a payment or transfer from a financial account associated with the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, receives a payment for a financial account associated with the employer or hiring entity, and administers a financial account for the employer or hiring entity.

47. The apparatus of claim 38, wherein the apparatus is utilized on or over at least one of the Internet and the World Wide Web.

48. The apparatus of claim 38, wherein the apparatus is utilized with a wireless communication network.

49. The apparatus of claim 38, wherein the apparatus processes information regarding an auctioning activity for a service provided by the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

50. The apparatus of claim 38, wherein at least one of the first communication device and the second communication device is at least one of a personal computer, a hand-held computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and a watch.

51. An apparatus for providing recruitment information, comprising:

a memory device for storing at least one of recruitment information, recruitment related information, job search information, individual information, and information regarding at least one of a job opening and an employment opportunity posted by an employer or hiring entity;

a receiver for receiving a job search request from a first communication device associated with an individual, wherein the job search request is automatically received by the receiver in real-time;

a processing device for processing the job search request utilizing information stored in the memory device, wherein the processing device generates a search report message containing information regarding at least one of a job opening and an employment opportunity; and

a transmitter for transmitting the search report message to at least one of the first communication device and a second communication device associated with the individual,

wherein the receiver receives a response to the search report message, wherein the processing device processes information contained in the response and determines whether the individual is interested or not

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interested in applying for the at least one of a job opening and an employment opportunity, wherein the apparatus at least one of transmits a message to a third communication device associated with an employer or hiring entity associated with the at least one of a job opening and an employment opportunity and stores information regarding the individual's interest in or disinterest with the at least one of a job opening and an employment opportunity in the memory device, and further wherein the processing device stores information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the individual and the employer or hiring entity, in the memory device, wherein the information regarding the at least one of an interview process, an employment screening process, and a recruitment process, includes information regarding at least one of a deal reached between the individual and the employer or hiring entity, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of the individual and the employer or hiring entity.

52. An apparatus for providing recruitment information, comprising:

a memory device for storing at least one of recruitment information, recruitment related information, job search information, and information regarding at least one of an individual and an independent contractor;

a receiver for receiving an employee or independent contractor search request from a first communication device associated with an employer or hiring entity, wherein the employee or independent contractor search request is automatically received by the receiver in real-time;

a processing device for processing the employee or independent contractor search request utilizing information stored in the memory device, wherein the processing device generates a search report message containing information regarding at least one of an individual and an independent contractor; and

a transmitter for transmitting the search report message to at least one of the first communication device and a second communication device associated with the employer or hiring entity,

wherein the receiver receives a response to the search report message, wherein the processing device processes information contained in the response and determines whether the employer or hiring entity is interested in or not interested in the at least one of an individual and an independent contractor, wherein the apparatus at least one of transmits a message to a third communication device associated with the at least one of an individual and an independent contractor and records an employer's or hiring entity's interest or disinterest in the at least one of an individual and an independent contractor, and further wherein the processing device stores information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the employer or hiring entity and the at least one of an individual and an independent contractor, in the memory device, wherein the information regarding the at least one of an interview process, an employment screening process, and a recruitment process, includes information regarding

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at least one of a deal reached between the employer or hiring entity and the at least one of an individual and an independent contractor, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of the employer or hiring entity and the at least one of an individual and an independent contractor.

**53.** A computer-implemented method for providing recruitment information, comprising:

- storing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and information regarding a job search request, in a memory device;
- detecting an occurrence of a searching event with a processing device, wherein the processing device is programmed to detect the occurrence of the searching event;
- processing information regarding the job search request with the processing device, wherein the processing device utilizes information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, stored in the memory device;
- generating a message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is generated by the processing device, wherein the message is responsive to the job search request; and
- transmitting the message from a transmitter to a communication device associated with an individual, wherein the message is transmitted to the communication device in real-time.

**54.** A computer-implemented method for providing recruitment information, comprising:

- storing information regarding at least one individual available for at least one of applying for and interviewing for at least one of a job, a job opportunity, and a hiring need, of an employer or hiring entity, and information regarding a recruitment search request associated with an employer or hiring entity, in a memory device;
- detecting an occurrence of a searching event with a processing device, wherein the processing device is programmed to detect the occurrence of the searching event;
- processing information regarding the recruitment search request with the processing device, wherein the processing device utilizes information regarding the at least one individual stored in the memory device;
- generating a message containing information regarding the at least one individual, wherein the message is generated by the processing device, wherein the message is responsive to the recruitment search request; and
- transmitting the message from a transmitter to a communication device associated with the employer or hiring entity, wherein the message is transmitted to the communication device in real-time.

**55.** A computer-implemented method for providing recruitment information, comprising:

- storing at least one of work schedule information and scheduling information for at least one of an individual, and independent contractor, a temporary worker, and a freelancer, in a memory device;
- receiving a first request with a receiver, wherein the first request contains information regarding a request to

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obtain at least one of work schedule information and scheduling information for the at least one of an individual, and independent contractor, a temporary worker, and a freelancer, wherein the first request is received from a first communication device associated with an employer or hiring entity;

processing information contained in the first request with a processing device;

generating a first message containing the at least one of work schedule information and scheduling information for the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, wherein the first message is generated by the processing device;

transmitting the first message from a transmitter to the first communication device,

receiving a second request with the receiver, wherein the second request contains information for at least one of reserving, engaging, and requesting, the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer;

at least one of processing the information contained in the second request with the processing device and at least one of reserving, engaging, and requesting, the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, and generating a second message containing information regarding the second request with the processing device, and

transmitting the second message from the transmitter to a second communication device associated with the at least one of an individual, an independent contractor, a temporary worker, and a freelancer.

**56.** A computer-implemented method for providing recruitment information, comprising:

- storing at least one of work schedule information and scheduling information for an employer or hiring entity in a memory device;

- receiving a first request with a receiver, wherein the first request is a request to obtain at least one of work schedule information and scheduling information for the employer or hiring entity, wherein the first request is received from a first communication device associated with at least one of an individual, an independent contractor, a temporary worker, and a freelancer;

- processing information contained in the first request with a processing device;

- generating a first message containing the at least one of work schedule information and scheduling information for the employer or hiring entity with the processing device;

- transmitting the first message from a transmitter to the first communication device,

- receiving a second request with the receiver, wherein the second request contains information regarding an offer to provide the services of the at least one of an individual, an independent contractor, a temporary worker, and a freelancer, to the employer or hiring entity;

- at least one of processing the information contained in the second request with the processing device and at least one of accepting or rejecting the offer;

- generating a second message with the processing device, wherein the second message contains information regarding the offer; and



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transmitting the second message from the transmitter to a second communication device associated with the employer or hiring entity.

57. A computer-implemented method for providing recruitment information, comprising:

storing at least one of recruitment information, recruitment related information, job search information, individual information, and information regarding at least one of a job opening and an employment opportunity posted by an employer or hiring entity, in a memory device;

receiving a job search request from a first communication device associated with an individual, wherein the job search request is received with a receiver, and further wherein the job search request is automatically received by the receiver in real-time;

processing the job search request with a processing device utilizing information stored in the memory device;

generating a search report message with the processing device, wherein the search report message contains information regarding at least one of a job opening and an employment opportunity;

transmitting the search report message from a transmitter to at least one of the first communication device and a second communication device associated with the individual;

receiving a response to the search report message with the receiver;

processing information contained in the response with the processing device;

determining whether the individual is interested in or not interested in applying for the at least one of a job opening and an employment opportunity; and

at least one of transmitting a message with the transmitter to a third communication device associated with an employer or hiring entity associated with the at least one of a job opening and an employment opportunity and storing information regarding the individual's interest in or disinterest in the at least one of a job opening and an employment opportunity in the memory device; and

storing information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the individual and the employer or hiring entity, in the memory device, wherein the information regarding the at least one of an interview process, an employment screening process, and a recruitment process, includes information regarding at least one of a deal reached between the individual and the employer or hiring entity, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of the individual and the employer or hiring entity.

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58. A computer-implemented method for providing recruitment information, comprising:

storing at least one of recruitment information, recruitment related information, job search information, and information regarding at least one of an individual and an independent contractor, in a memory device;

receiving an employee or independent contractor search request from a first communication device associated with an employer or hiring entity with a receiver, wherein the employee or independent contractor search request is automatically received by the receiver in real-time;

processing the employee or independent contractor search request with a processing device utilizing information stored in the memory device;

generating a search report message with the processing device, wherein the search report message contains information regarding at least one of an individual and independent contractor;

transmitting the search report message from a transmitter to at least one of the first communication device and a second communication device associated with the employer or hiring entity;

receiving a response to the search report message with the receiver;

processing information contained in the response with the processing device;

determining whether the employer or hiring entity is interested in or not interested in the at least one of an individual and an independent contractor;

at least one of transmitting a message to a third communication device associated with the at least one of an individual and an independent contractor and recording an employer's or hiring entity's interest in or disinterest in the at least one of an individual and an independent contractor;

storing information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the employer or hiring entity and the at least one of an individual and an independent contractor, in the memory device, wherein the information regarding the at least one of an interview process, an employment screening process, and a recruitment process, includes information regarding at least one of a deal reached between the employer or hiring entity and the at least one of an individual and an independent contractor, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of the employer or hiring entity and the at least one of an individual and an independent contractor.

\* \* \* \* \*

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT NO. : 6,662,194 B1  
APPLICATION NO. : 09/612528  
DATED : December 9, 2003  
INVENTOR(S) : Raymond A. Joao

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Col. 47, line 3, delete "god p".

Signed and Sealed this

Twenty-seventh Day of November, 2007

A handwritten signature in black ink on a light gray dotted background. The signature is written in a cursive style and appears to read "Jon W. Dudas".

JON W. DUDAS

*Director of the United States Patent and Trademark Office*

# EXHIBIT B



US007490086B2

(12) **United States Patent**  
**Joao**

(10) **Patent No.:** **US 7,490,086 B2**  
(45) **Date of Patent:** **\*Feb. 10, 2009**

(54) **APPARATUS AND METHOD FOR PROVIDING JOB SEARCHING SERVICES RECRUITMENT SERVICES AND/OR RECRUITMENT-RELATED SERVICES**

(76) Inventor: **Raymond Anthony Joao**, 122 Bellevue Pl., Yonkers, NY (US) 10703

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 541 days.

This patent is subject to a terminal disclaimer.

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(22) Filed: **Oct. 23, 2003**

(Continued)

(65) **Prior Publication Data**

US 2004/0107192 A1 Jun. 3, 2004

*Primary Examiner*—Jean M Corrielus

(74) *Attorney, Agent, or Firm*—Raymond A. Joao, Esq.

#### Related U.S. Application Data

(63) Continuation of application No. 09/612,528, filed on Jul. 7, 2000, now Pat. No. 6,662,194.

(60) Provisional application No. 60/146,776, filed on Jul. 31, 1999.

(51) **Int. Cl.**  
**G06F 17/30** (2006.01)

(52) **U.S. Cl.** ..... **707/10**; 707/104.1; 707/3; 707/4; 707/5

(58) **Field of Classification Search** ..... 707/104.1, 707/3, 10, 103 R, 1, 2, 4, 5; 705/1, 10, 11, 705/26

See application file for complete search history.

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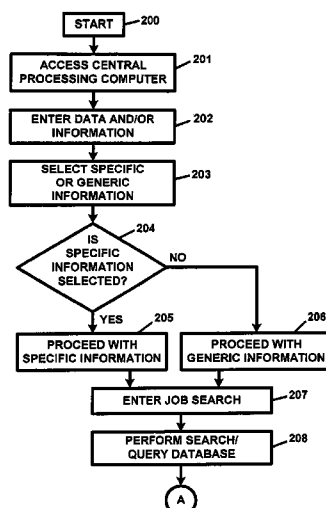
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(57) **ABSTRACT**

An apparatus, including a memory device which stores information regarding a job opening, position, assignment, contract, or project, and information regarding a job search request or inquiry, a processing device which processing the information regarding a job search request or inquiry upon an automatic detection of an occurrence of a searching event which is an occurrence of a job posting, a posting of new or revised data or information, a news release of a business event, an employment-related event, an economic report, industry-specific news, an event which creates an to fill a position, or an event which creates an interest to seek a position, and generates a message, containing the information regarding a job opening, position, assignment, contract, or project, responsive to the job search request or inquiry, and a transmitter which transmits the message to a communication device associated with an individual.

**32 Claims, 16 Drawing Sheets**



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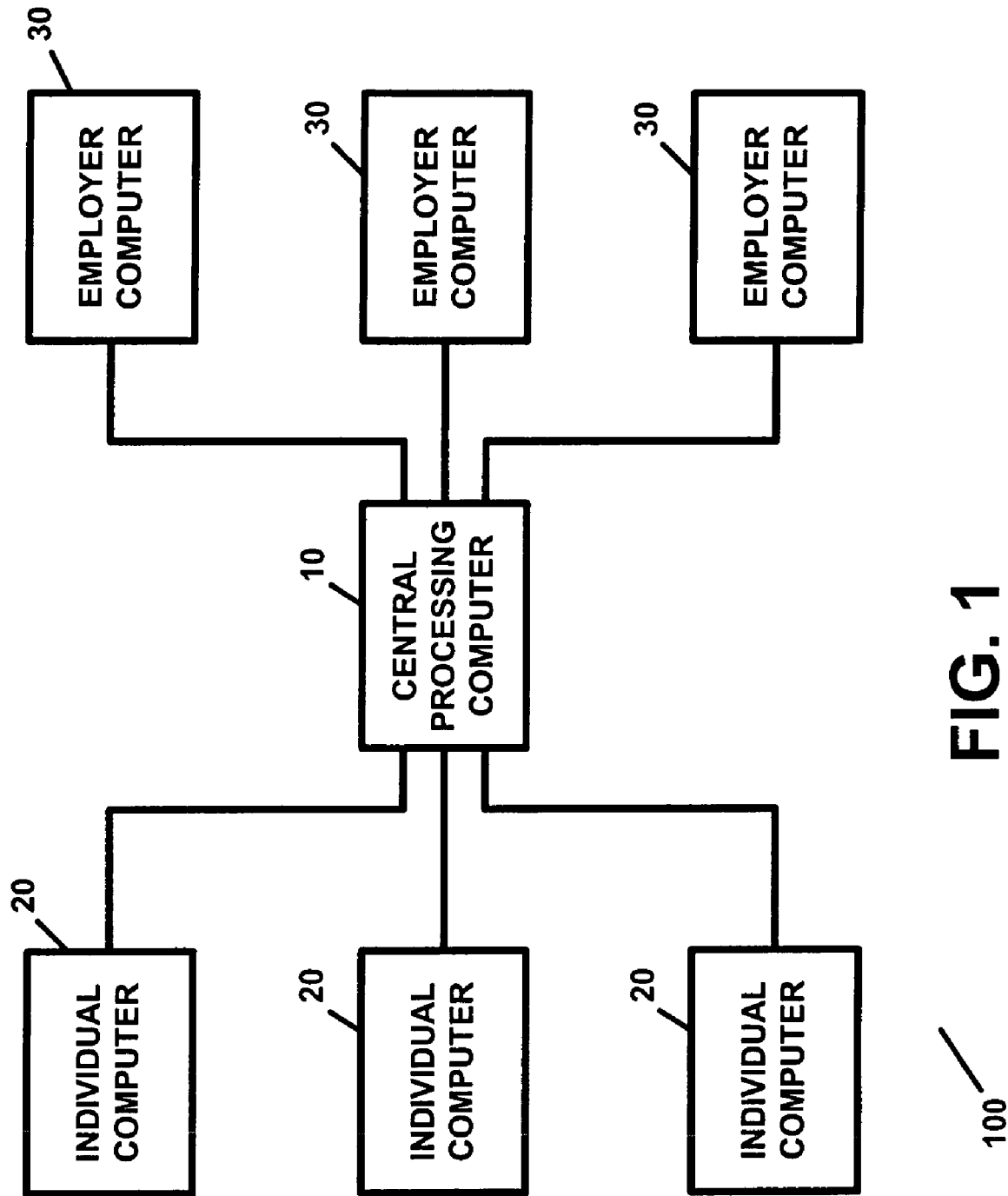
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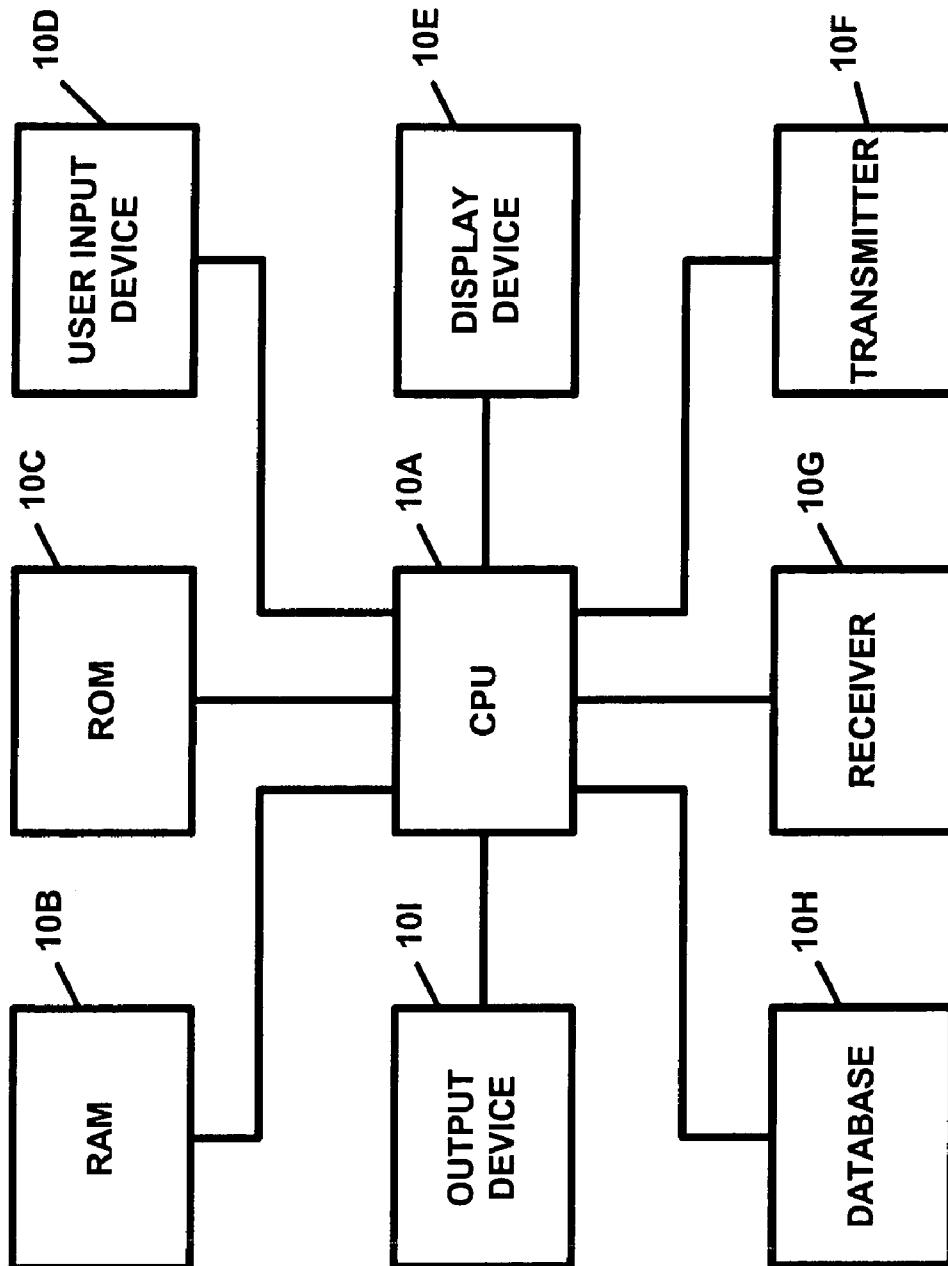
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**FIG. 2**

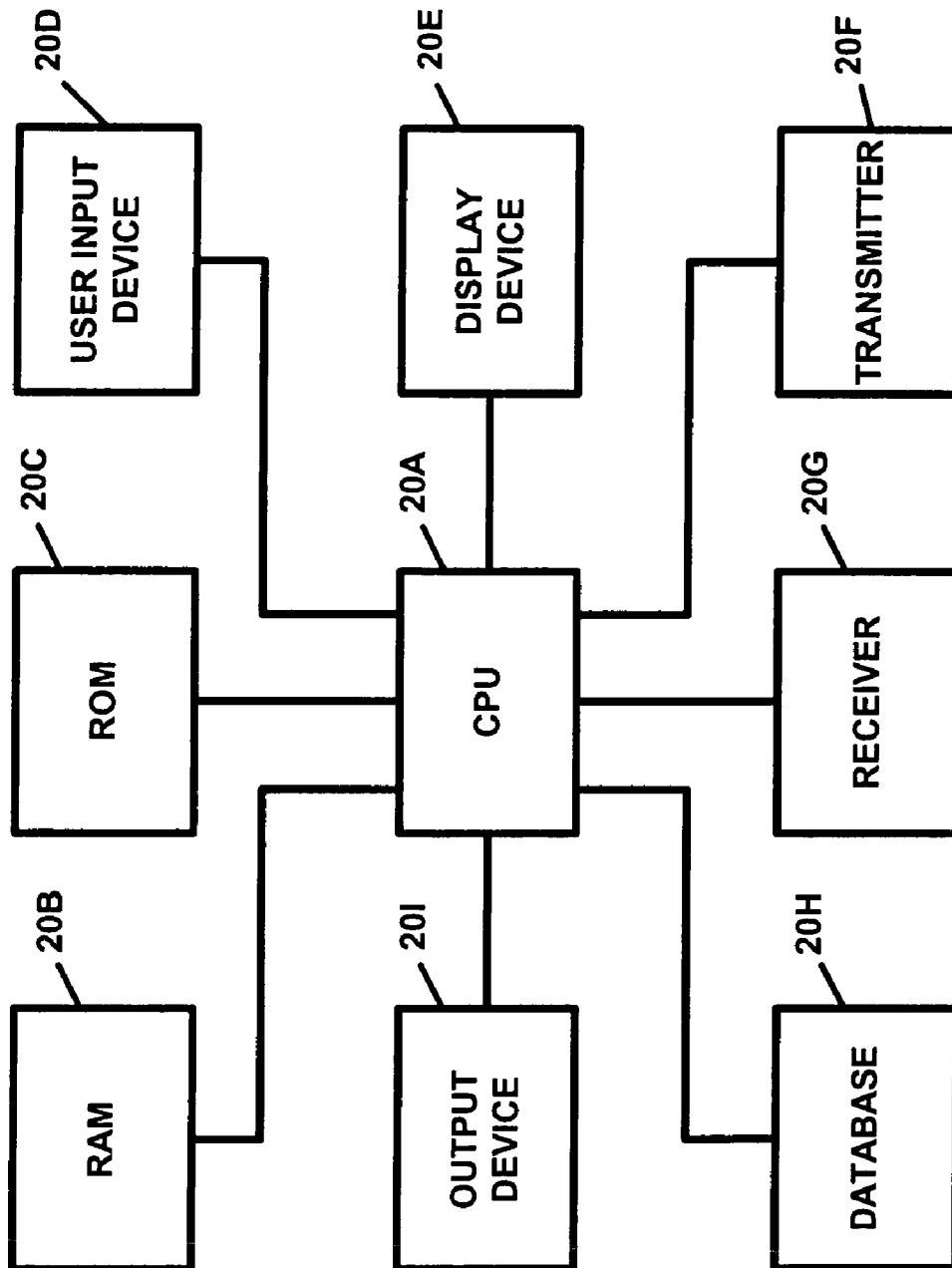


FIG. 3

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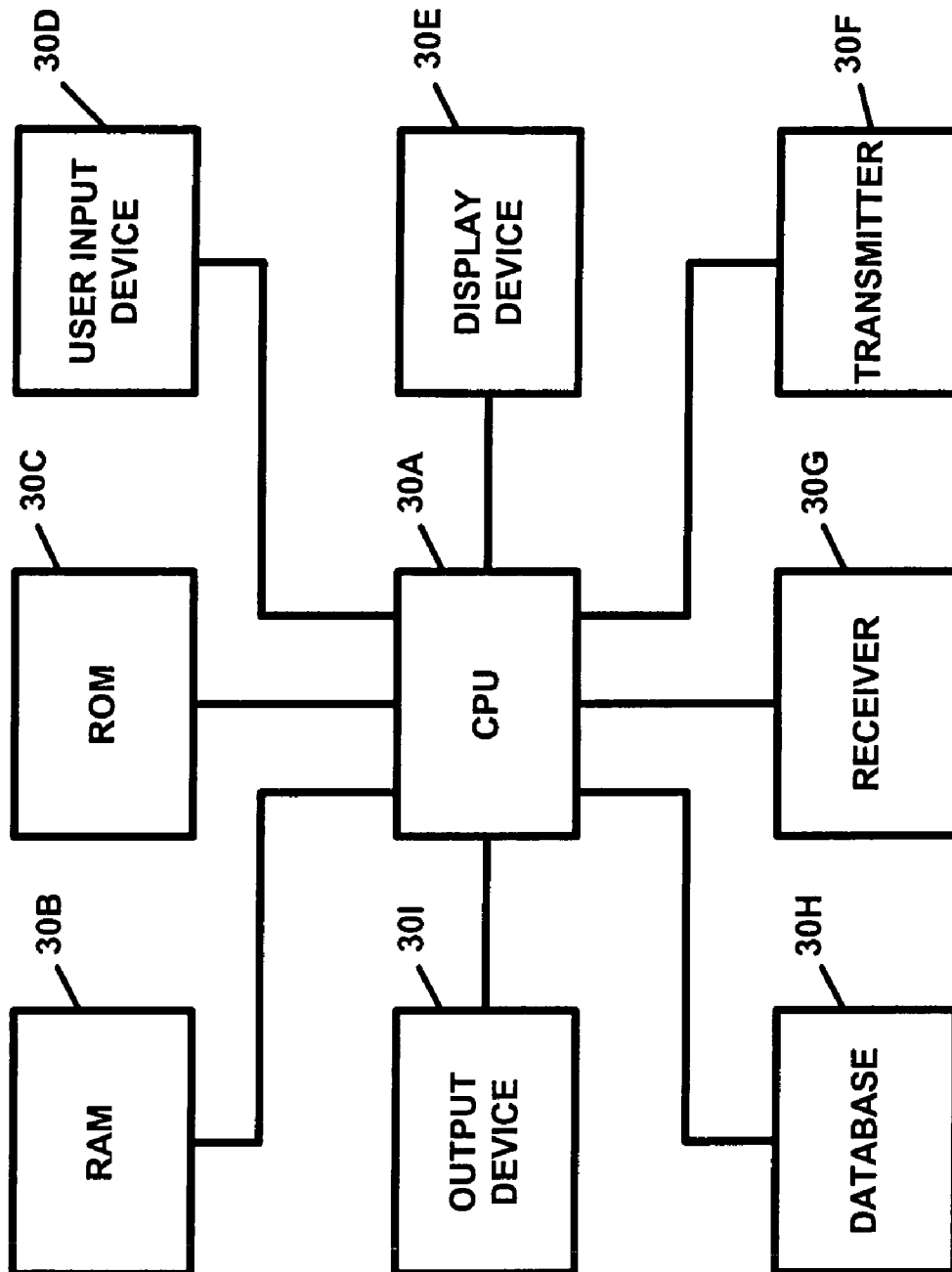
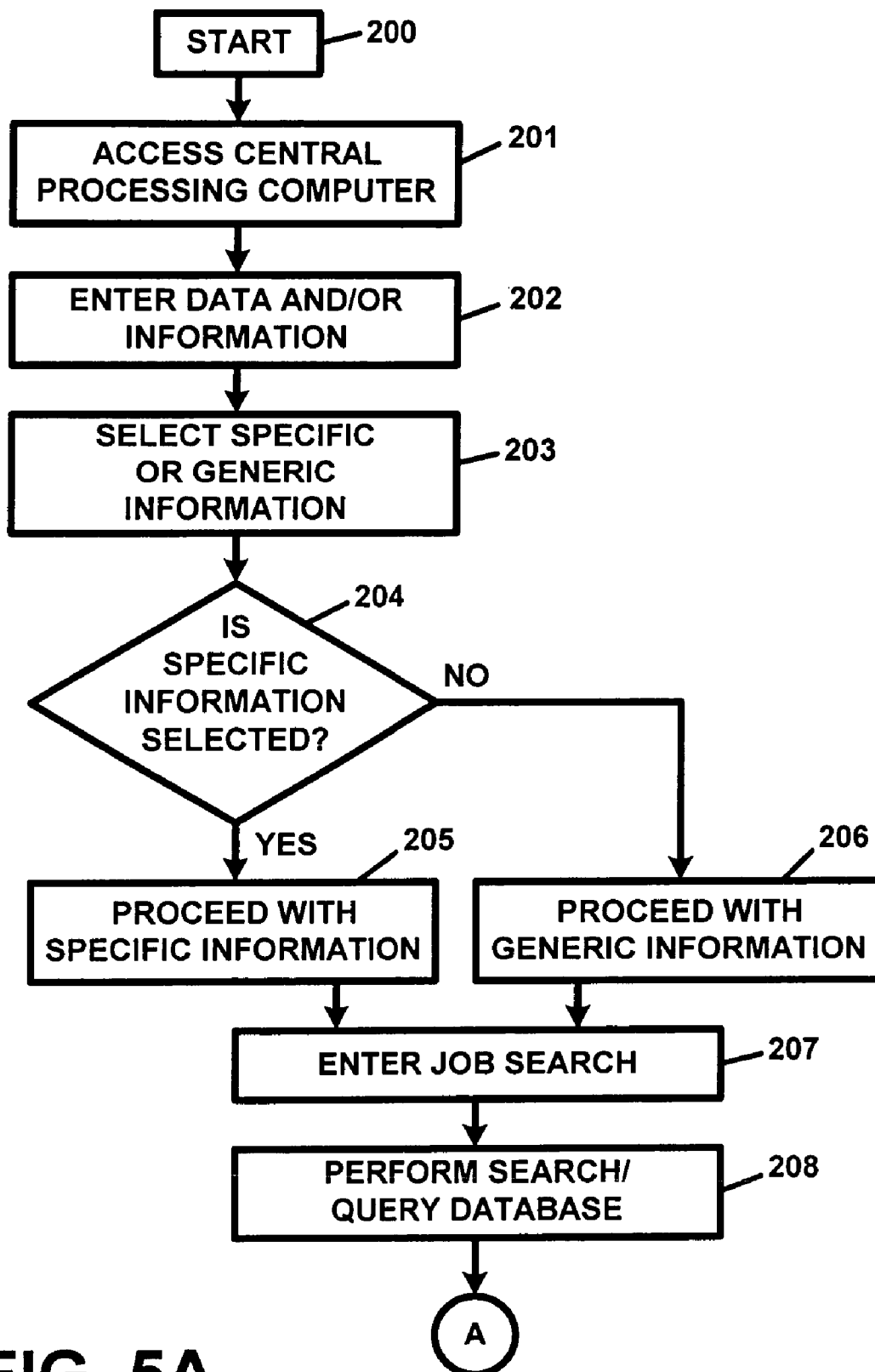
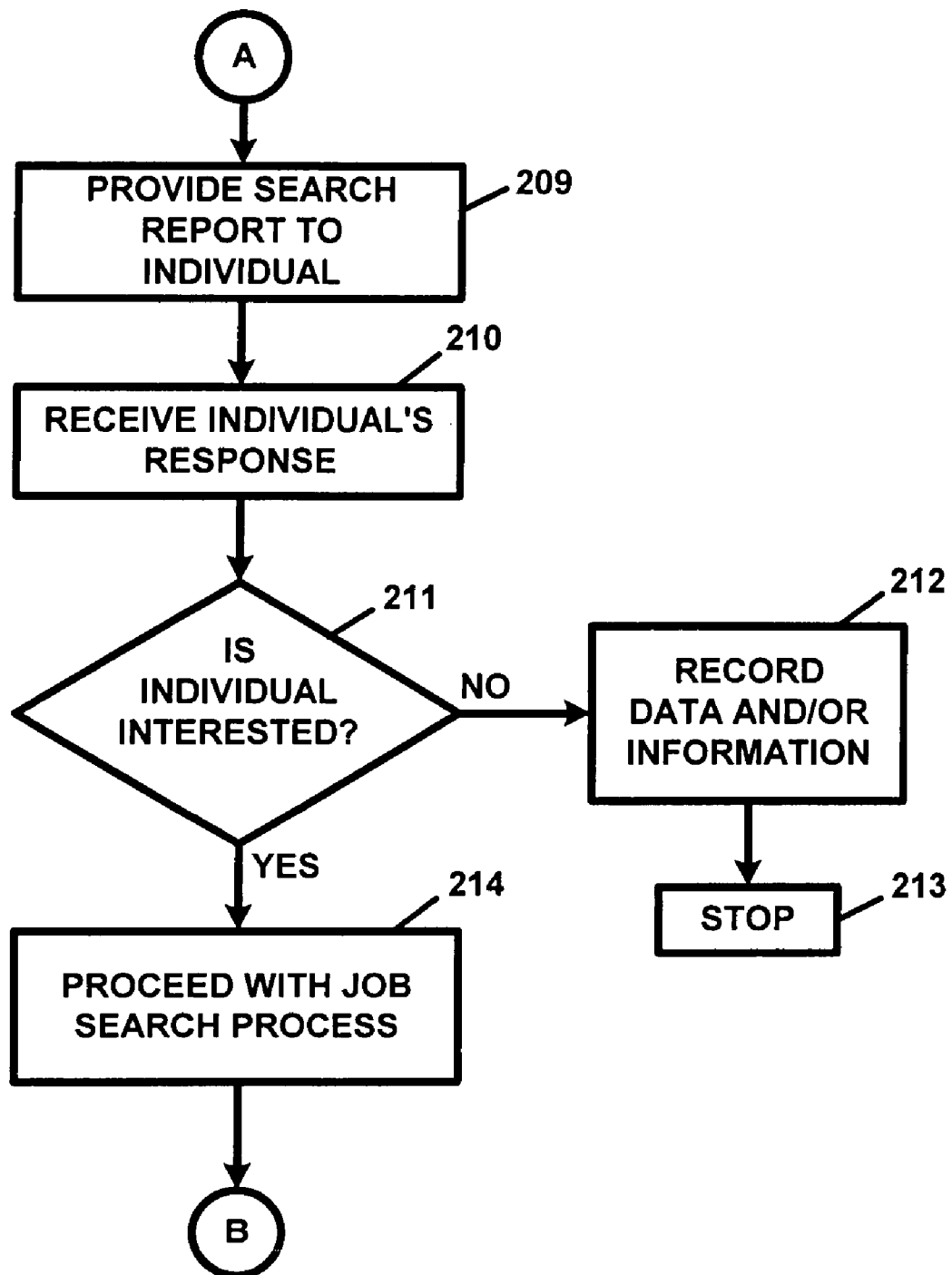
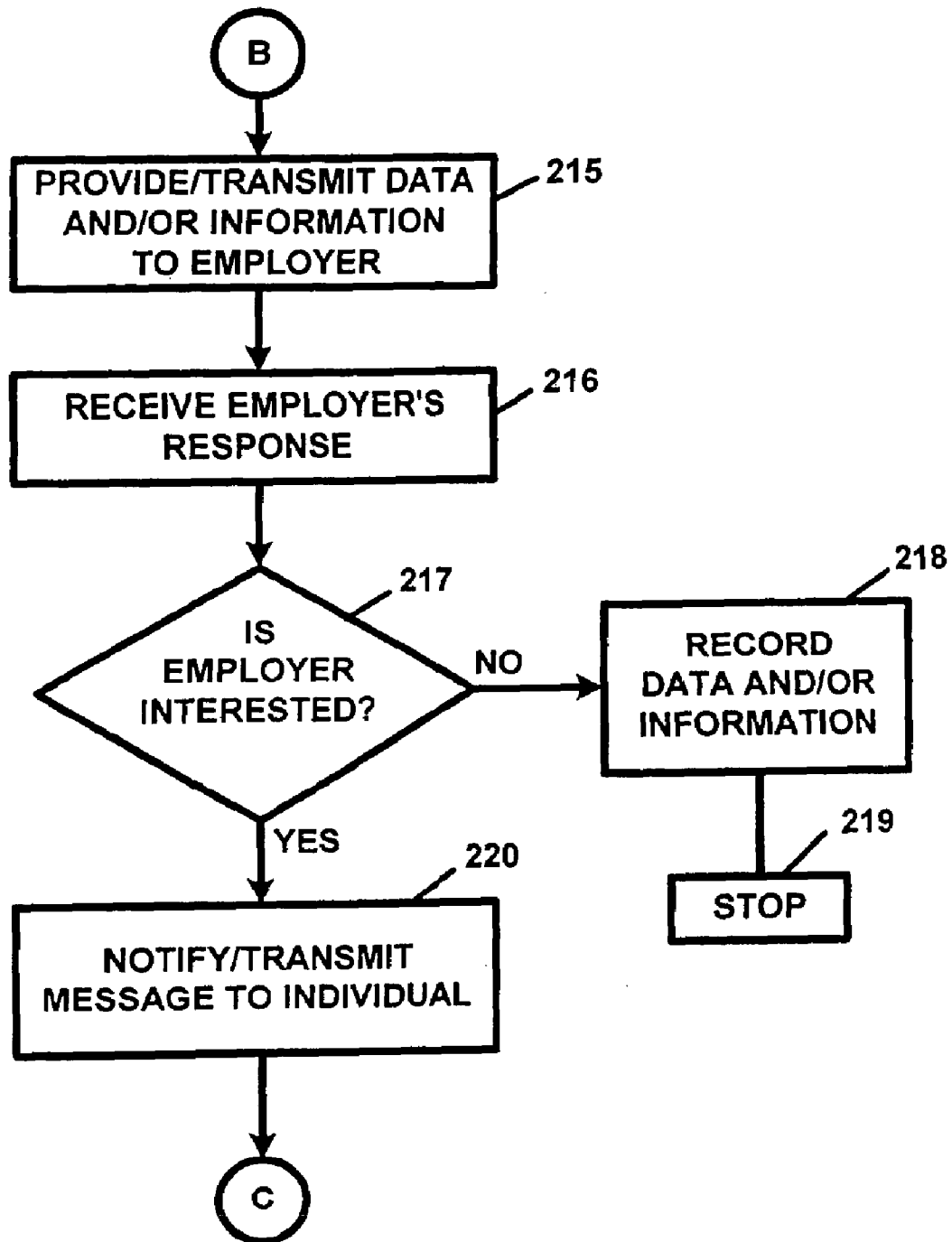


FIG. 4

**FIG. 5A**

**FIG. 5B**

**FIG. 5C**

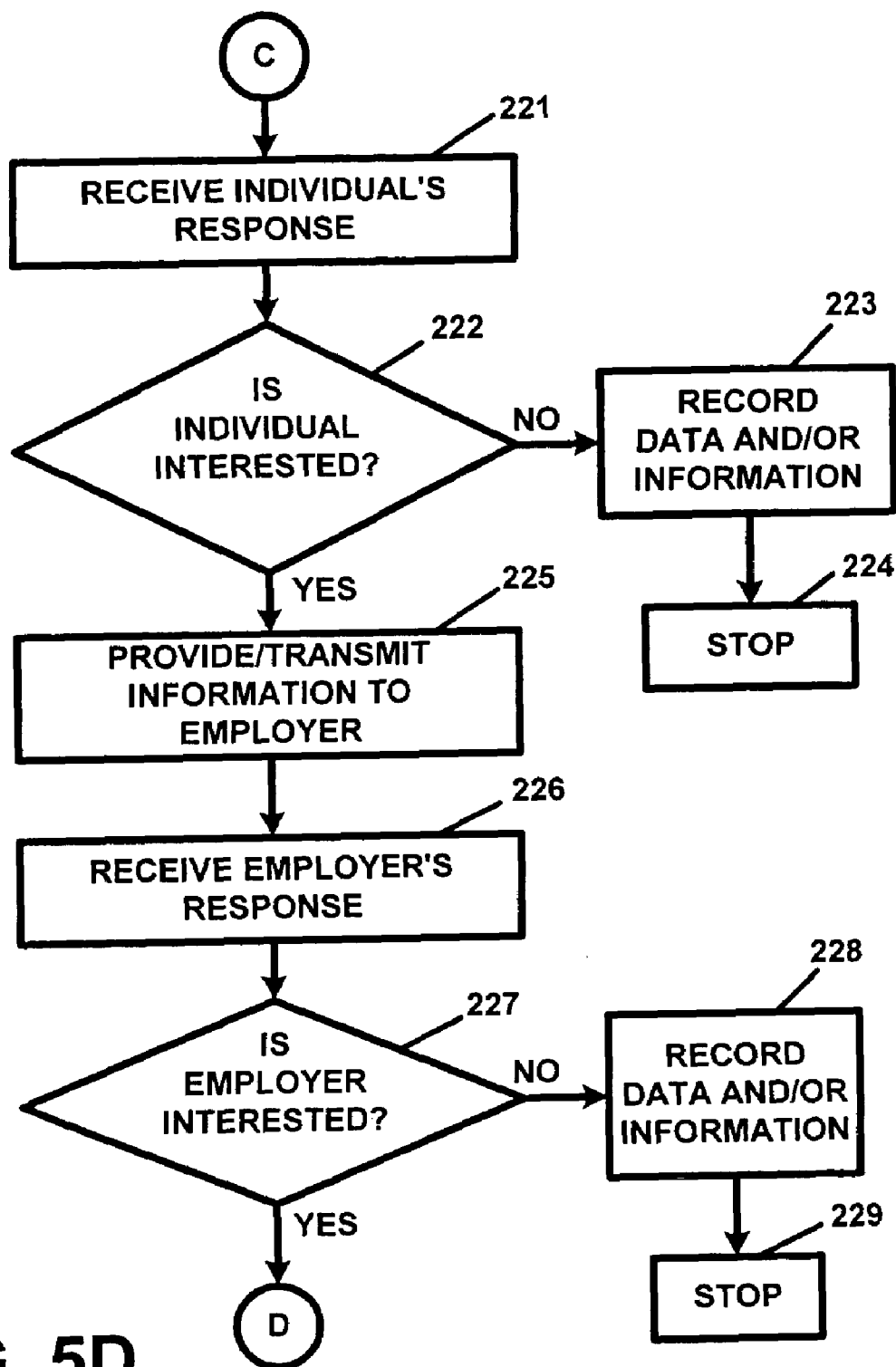
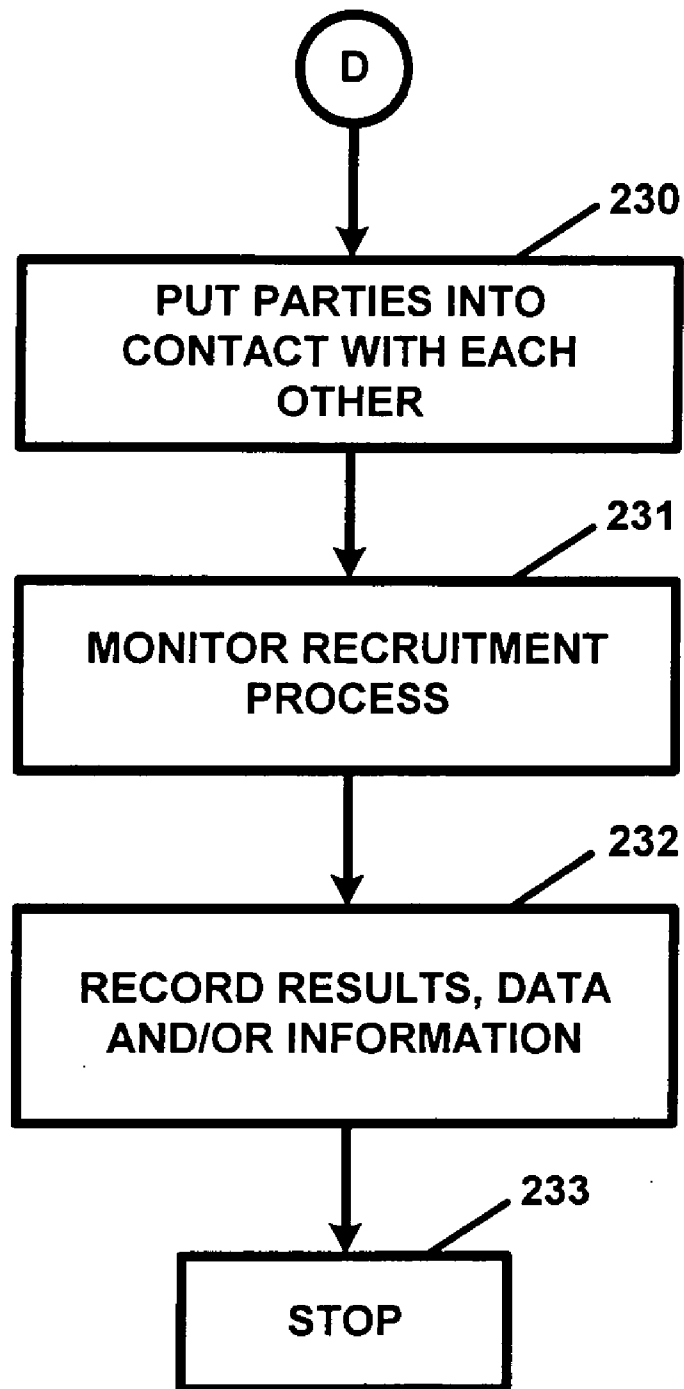
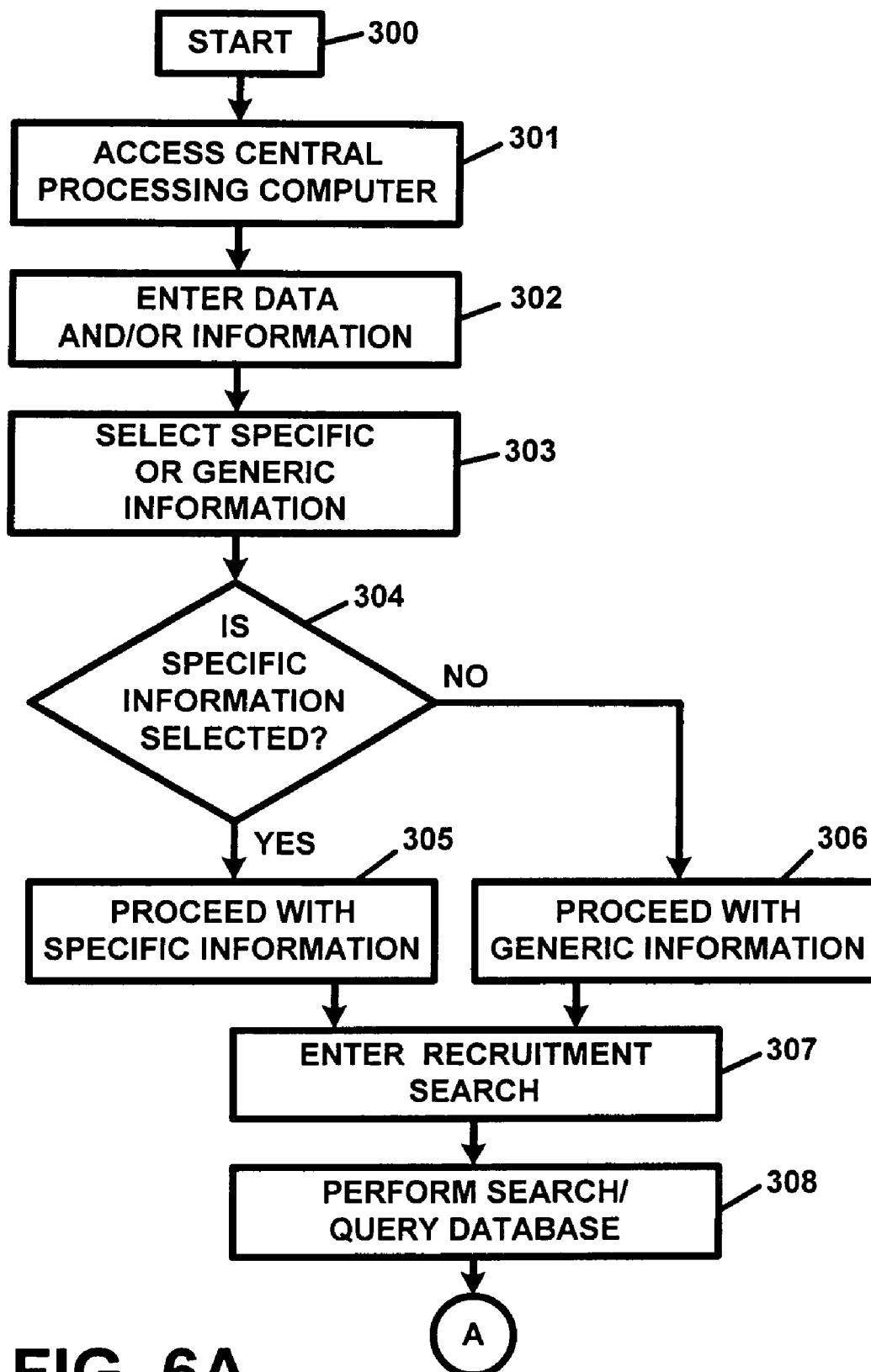
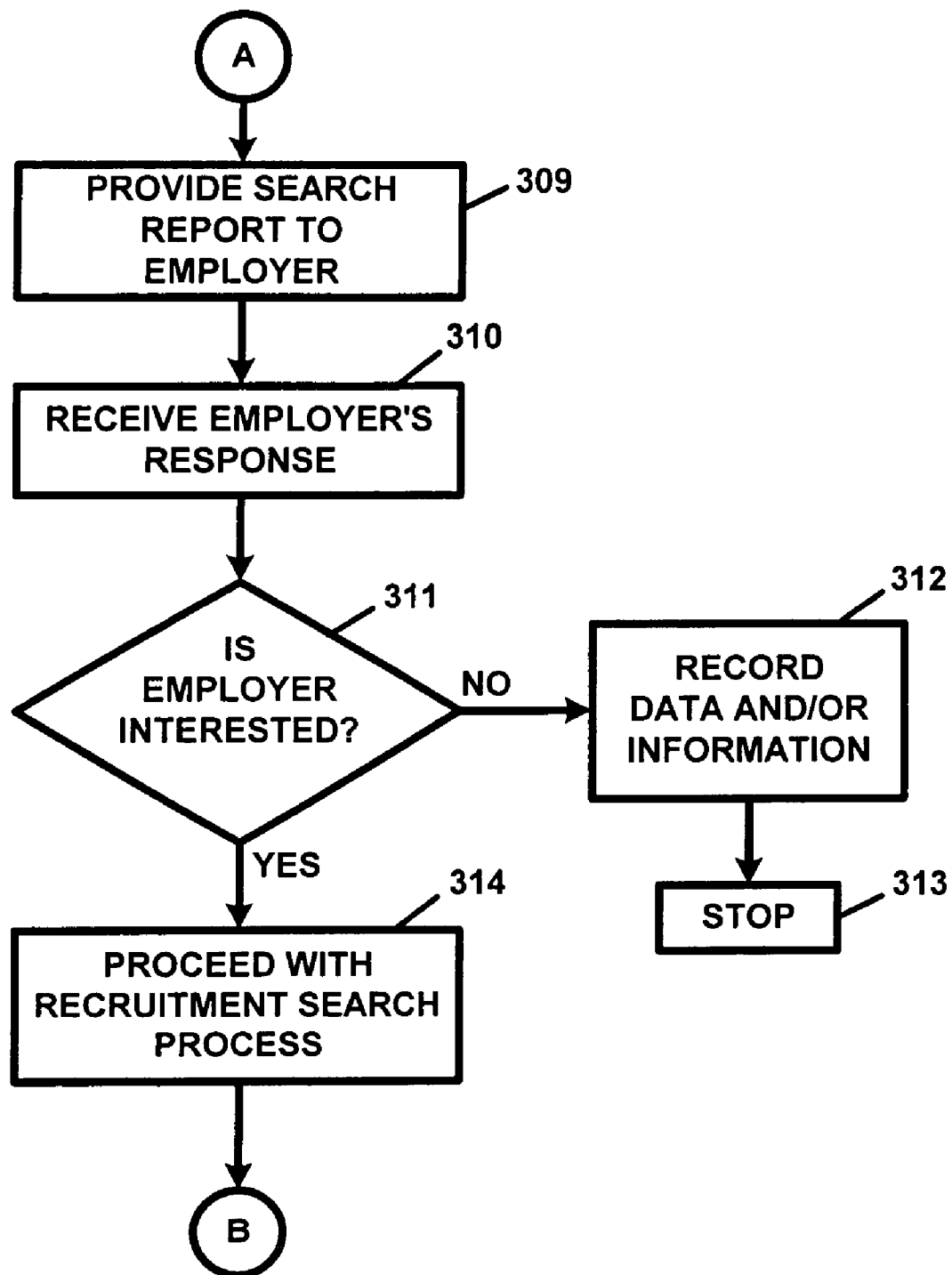


FIG. 5D

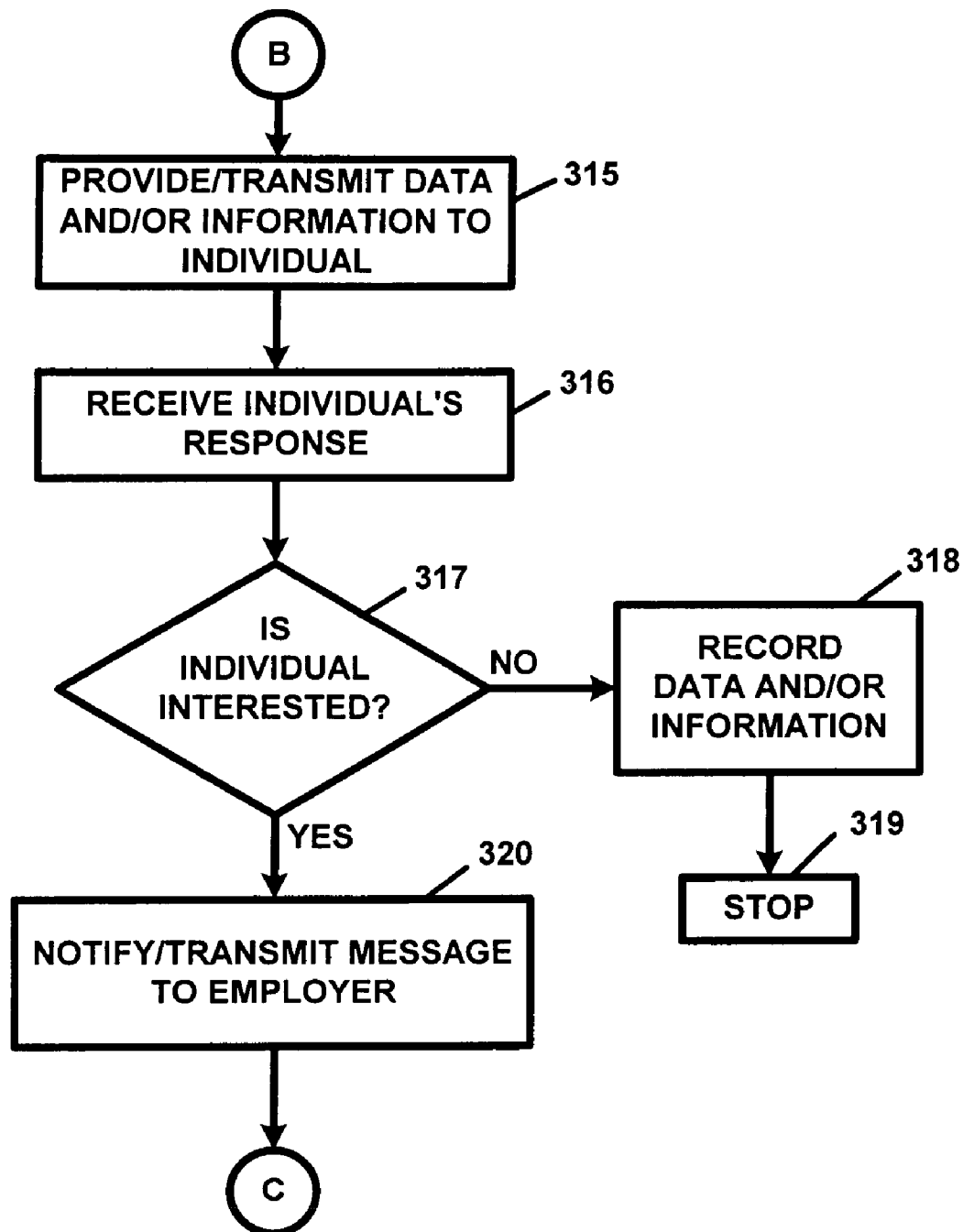


**FIG. 5E**



**FIG. 6B**



**FIG. 6C**

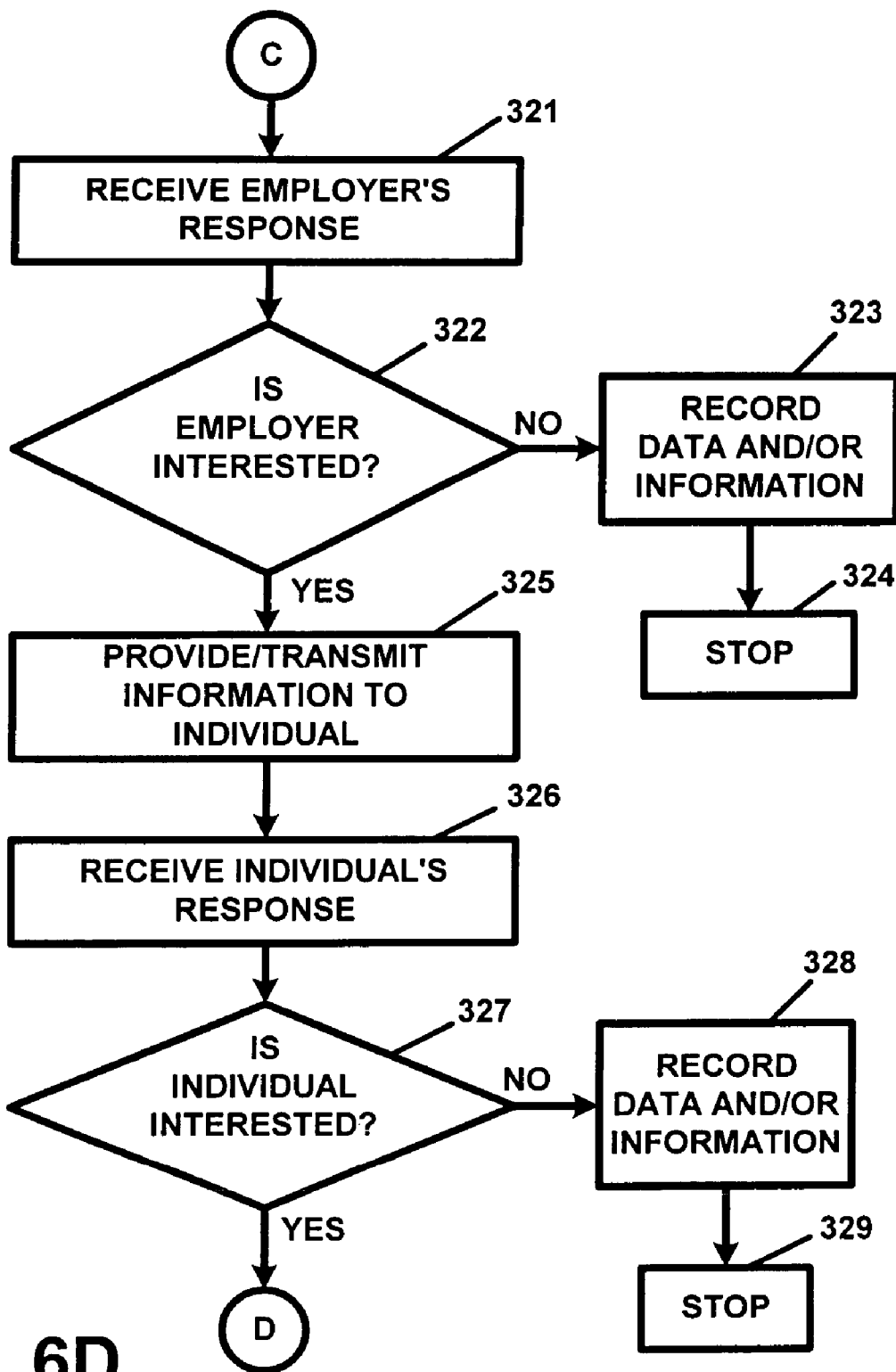
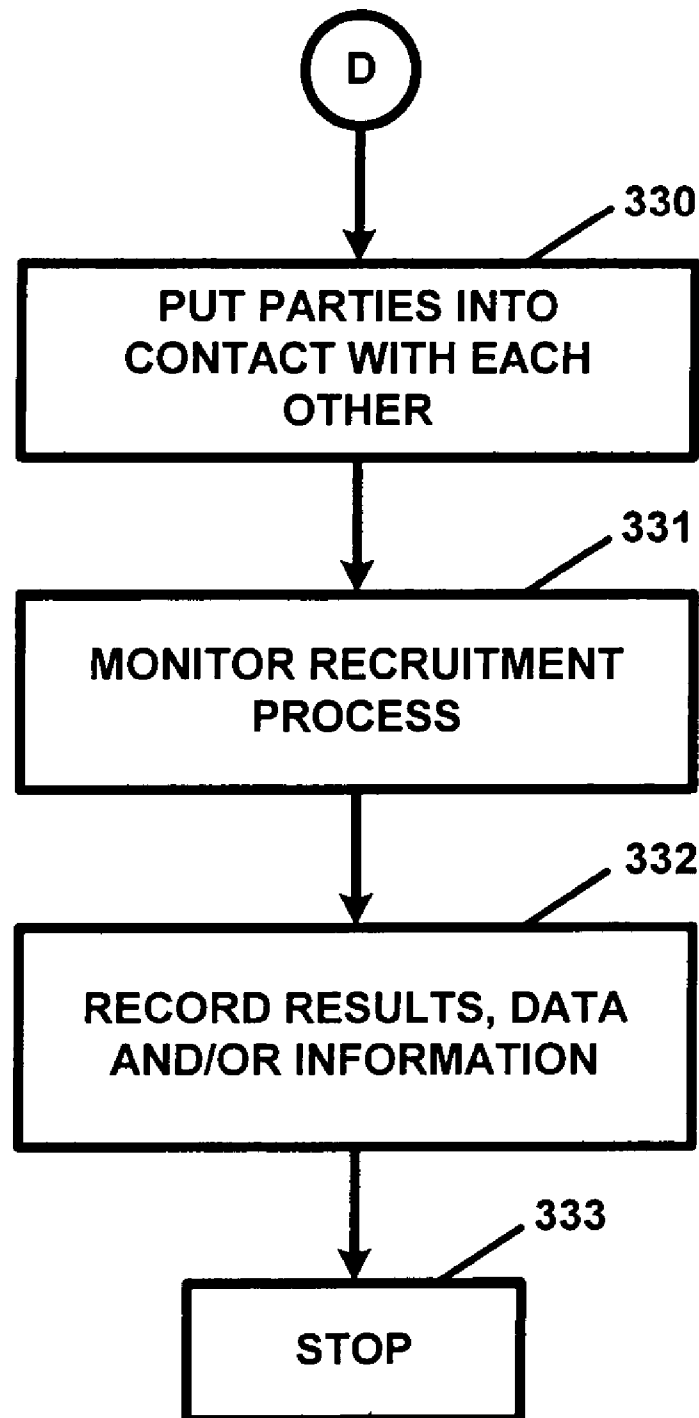
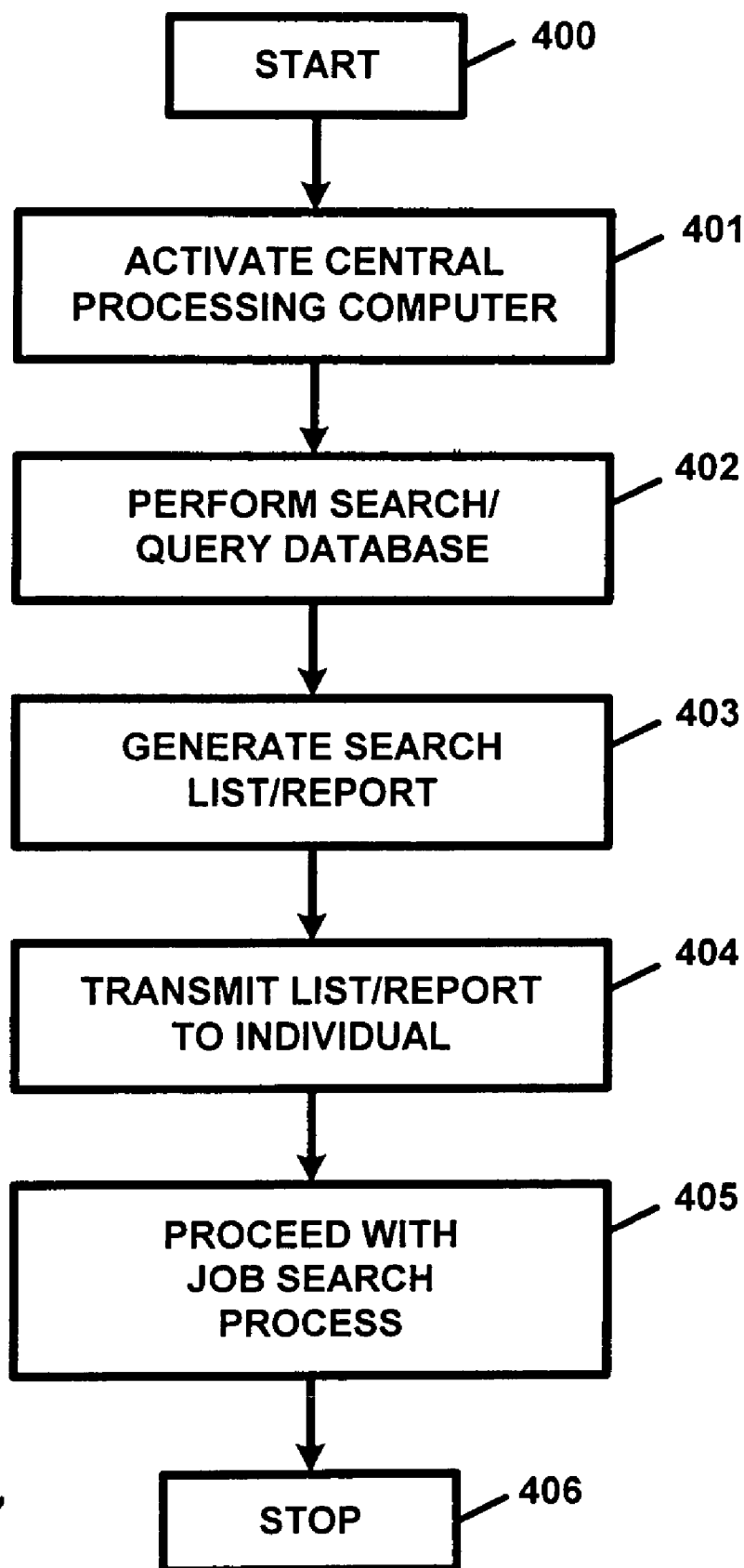
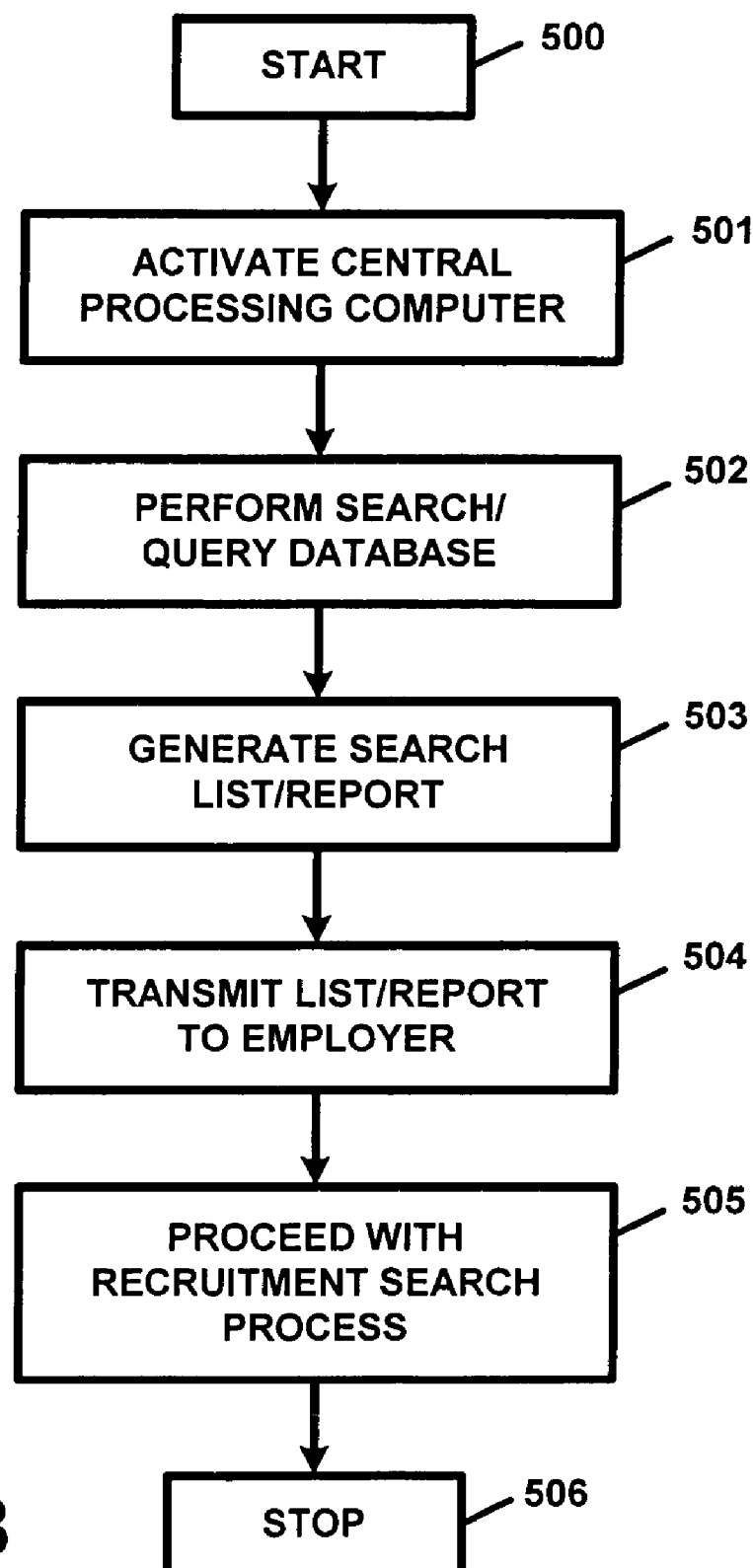


FIG. 6D

**FIG. 6E**

**FIG. 7**

**FIG. 8**

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# APPARATUS AND METHOD FOR PROVIDING JOB SEARCHING SERVICES RECRUITMENT SERVICES AND/OR RECRUITMENT-RELATED SERVICES

## RELATED APPLICATIONS

This is a continuation application of U.S. patent application Ser. No. 09/612,528, filed on Jul. 7, 2000, and entitled "APPARATUS AND METHOD FOR PROVIDING JOB SEARCHING SERVICES, RECRUITMENT SERVICES AND/OR RECRUITMENT-RELATED SERVICES", now U.S. Pat. No. 6,662,194, the subject matter of which is hereby incorporated by reference herein. U.S. patent application Ser. No. 09/612,528, filed on Jul. 7, 2000, now U.S. Pat. No. 6,662,194, claims the benefit of priority of U.S. Provisional Patent Application Ser. No. 60/146,776, filed Jul. 31, 1999, and entitled "APPARATUS AND METHOD FOR PROVIDING JOB SEARCHING SERVICES, RECRUITMENT SERVICES AND/OR RECRUITMENT-RELATED SERVICES", the subject matter of which is hereby incorporated by reference herein.

## FIELD OF THE INVENTION

The present invention is directed to an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services and, in particular, to an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services as they may relate to individuals, independent contractors, freelancers, employers and/or hiring entities, in a network environment.

## BACKGROUND OF THE INVENTION

Individuals, independent contractors, and/or freelancers, can expend great efforts and a great deal of time in job searching efforts. Individuals, independent contractors, and/or freelancers, typically place a great deal of importance on their job searching efforts, on efforts directed to securing employment, both permanently and/or temporarily as a temporary employee and/or "contract" employee, and/or on efforts directed to obtaining and/or securing projects and/or assignments.

Employers and/or hiring entities require that they have a satisfactory workforce in order to meet the demands of doing business. In this regard, employers and/or hiring entities very often need to find and/or recruit new employees, replace former employees, find employees with new skills to meet their business needs, and/or obtain the services of temporary workers, independent contractors, and/or freelancers.

Growing businesses and markets have been created by the need for individuals, independent contractors, and/or freelancers to find and/or to secure jobs, employment, projects and/or assignments, and by the need of employers and/or hiring entities to recruit and hire new employees, independent contractors, and/or freelancers. These businesses and markets include employment agencies, recruiters, so-called "headhunters", employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, who or which, respectively, bring the respective parties together and/or assist them in obtaining introductions, establishing a dialog between parties, reaching agreement on, and/or establishing an employment, an independent contractor, and/or a freelance relationship.

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Job searching activities and recruitment activities typically require efforts in introducing parties to one another, pre-screening the parties prior to, and/or subsequent to, an introduction, acting as an information gathering entity for a party, exchanging information in order to determine if a relationship is appropriate and/or desirable, negotiating a deal, and/or consummating a deal between the respective parties. While individuals and/or employers and/or hiring entities can act on their own behalf during most of the process, one of the parties may typically enlist the efforts of an employment agency or agencies, a recruiter(s), a so-called "headhunter(s)", an employment and/or career consultant(s), a temporary employment agency or agencies, a personal agent(s), a personal manager(s), and/or another intermediary or intermediaries, sometimes at great expense.

The enlistment of employment agencies, recruiters, so-called "headhunters", employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, can be costly and can lead to job search efforts and/or recruitment efforts which may be limited in breadth and/or scope by the personal and/or individual contacts, limitations and/or constraints associated with the employment agency, recruiter, so-called "headhunter", employment and/or career consultant, temporary employment agency, personal agent, personal manager, and/or other intermediary.

In this regard, job search efforts and/or recruitment efforts may be limited, thereby depriving an individual and/or an employer and/or hiring entity of being introduced to the best possible candidates. In some instances, an employer and/or hiring entity may forgo access to certain candidates simply because they cannot and/or refuse to enlist the efforts of a recruiter and/or other intermediary.

Job searching efforts and recruitment efforts may be limited by and/or be constrained by limited personal contacts, geographical constraints, monetary constraints, and/or time constraints. Oftentimes, individuals, employers and/or hiring entities, do not have the resources to conduct their own respective job searching efforts or recruitment efforts. The enlistment of employment agencies, recruiters, so-called "headhunters", employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, may not be sufficient to overcome these limitations and/or constraints, particularly, if the respective employment agency or agencies, recruiter(s), so-called "headhunter(s)", employment and/or career consultant(s), temporary employment agency or agencies, personal agent(s), personal manager(s) and/or other intermediary or intermediaries, are working with similar limitations and/or constraints.

The job search process and/or the recruitment process can typically be rendered more difficult in instances when additional information may be requested by one or by both of the parties concerning a counterpart. This typically results in time delays and/or additional expense to the party having to comply with such a request.

Job searching efforts and recruitment efforts may further be rendered more difficult when the parties are not properly pre-screened, thereby resulting in wasted time and effort, and/or when the parties are not properly informed as to the needs and/or demands of a counterpart. The needs and/or demands can include job description, job needs, project description, assignment description, salary, compensation, and/or other related information. The failure to pre-screen the parties and/or to conduct a dialog and/or initiate interviews and/or discussions when the parties may be so far apart regarding their respective needs, requests and/or expectations

tions, for example, those involving job duties and/or salary, can result in wasted time and effort.

Confidentiality is typically another concern in job searching activities and/or in recruitment activities. Individuals, employees, and/or hiring entities may have an interest in, and/or a desire for, maintaining confidentiality during at least some initial stages of any job search and/or recruitment effort. In some instances, once an initial interest is expressed, any confidentiality which may have existed may be lost for the remainder of the process. Sometimes, it may be desirable for an individual, an employer and/or hiring entity, to retain at least some level of confidentiality and/or anonymity further into the job search and/or recruitment process. In this manner, at least some confidentiality and/or anonymity can be preserved, especially if a deal between the parties is not ultimately reached.

Job searching activities and/or recruitment activities may be far too widespread and may be far too important to be limited by the above-described limitations and/or constraints. Individuals, employers and/or hiring entities would be better served by a system which overcomes the shortcomings of the prior art.

#### SUMMARY OF THE INVENTION

The apparatus and method of the present invention overcomes the shortcomings of the prior art and provides an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services. The present invention utilizes the technologies and advances in information technology and in communication technology in order to provide these services in a network environment.

The present invention is directed to an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, for the respective individuals, employees, independent contractors, freelancers, employers and/or hiring entities, described herein in a network environment. The present invention also provides a centralized apparatus, which can also serve as a clearinghouse, which provides job searching services, recruitment services, and/or recruitment-related services, as well as any of the services and/or activities described herein.

The apparatus and method of the present invention can be utilized by individuals, independent contractors, freelancers, and/or other entities, desirous of securing a job, a position, a project, an assignment, and/or an employment relationship, either permanent and/or temporary, with an employer and/or a hiring entity. The apparatus and method of the present invention can also be utilized by employers and/or by other hiring entities desirous of securing the services of an individual, an employee, an independent contractor, and/or freelancer, either permanently and/or temporarily.

The present invention can also be utilized by an employment agency, a recruiter, a so-called "headhunter", or other intermediary, in order to assist and/or to act on behalf of any of the individuals, employers and/or hiring entities described herein. The present invention can also be utilized in order to provide agency services for any of the herein described parties, i.e., individual, employees, independent contractors, freelancers, employers, hiring entities, recruiters, headhunters, etc.

The apparatus and method of the present invention can be utilized in a network environment in order to effectuate any of the services described herein on, or over, any communication network.

The apparatus can include a central processing computer or server computer, at least one or more individual computers

and at least one or more employer computers. Each of the herein-described computers may communicate with any and all of the computers which are utilized in conjunction with the apparatus of the present invention. The present invention may be utilized in any communication network such as the Internet, the World Wide Web, a telecommunications network, and/or any other communication network described herein and/or otherwise.

Each of the central processing computer(s), the individual computers, and/or the employer computers can include any and/or all components, peripherals, hardware, and/or software, for facilitating the use thereof in a manner consistent with the present invention as described herein.

The central processing computer may also include, and/or be linked to, a database(s) and/or other storage and/or memory device(s) for storing any and/or all of the data and/or information described as being utilized, and/or which may be utilized, in conjunction with the present invention.

The present invention provides job search services, recruitment services, and/or recruitment-related services, while preserving confidentiality among and/or between the parties and/or between the parties and third parties, and may further provide for varying layers of confidentiality for the parties involved. The present invention can also provide enhanced information services for the parties utilizing same, including but not limited to, links, hyperlinks, and/or other pointing and/or linking devices for linking a user to additional and/or supplemental information concerning any of the individuals, employers, hiring entities, and/or other parties, involved in a dialog, negotiations and/or discussions.

The data and/or information utilized in conjunction with the present invention can also be utilized by the various individuals, employers, hiring entities, contractors, applicants, recruiters, headhunters, third party intermediaries, and/or the operator and/or the administrator of the apparatus, and can be uploaded to, downloaded from, and/or be stored and/or be resident on any of the central processing computer(s), the individual computer(s), and/or the employer computer(s).

The apparatus and method of the present invention can be utilized to perform various job-searching services, recruitment services and/or recruitment-related services and/or functions. The present invention may be utilized by an individual, a prospective employee, an independent contractor, a freelancer, either permanent or temporary, to find or to locate a job, a position, a project and/or an assignment, for which they may wish to apply. The present invention can also be utilized by an employer and/or hiring entity to recruit and/or to search for, an individual, a prospective employee, an independent contractor, and/or a freelancer, either permanent or temporary.

The present invention can also be utilized by a recruiter, a headhunter, and/or a third party intermediary, in order to assist an individual, a prospective employee, an independent contractor, and/or a freelancer, in searching for a job, a position, a project, and/or an assignment, and/or for assisting an employer and/or a hiring entity in searching for, and/or for recruiting an individual, a prospective employee, an independent contractor, and/or a freelancer, in order to fill a hiring and/or other need.

The present invention may also be utilized to notify an individual, a prospective employee, an independent contractor, and/or freelancer, of the existence and/or the availability of an opportunity for and/or related to a job, a position, a project and/or an assignment. The present invention may also be utilized to notify an employer and/or a hiring entity of the availability of an individual, a prospective employee, an independent contractor, and/or freelancer.



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Any and/or all of the communications between the parties may be effected via electronic message transmission, e-mail, electronic forms submission, a telephone call, telephone messaging, facsimile messaging, pager and/or beeper messaging, physical mailing, and/or via any other appropriate method, means and/or mechanism.

Employers and/or other hiring entities can post data and/or list information regarding jobs, employment positions, temporary positions, assignments, freelance assignments, contracting assignments and/or jobs, as well as any other assignments, projects and/or efforts which require and/or which may require the services of an individual, an employee, an independent contractor, a freelancer, a temporary employee, etc., with the present invention.

Similarly, individuals, job applicants, prospective employees, independent contractors, temporary workers, and/or freelancers, etc., can also post and/or list data and/or information regarding themselves with the present invention.

The present invention can be utilized in order to allow employers and/or hiring entities to bid for individuals, employees, independent contractors, and/or freelancers. The present can also be utilized in order to allow individuals and/or their agents and/or managers to auction and/or offer their services to employers and/or to hiring entities.

The present invention can be utilized for managing work schedules, and/or for maintaining information regarding work schedules for an individual or entity, including, but not limited to, any job applicant, temporary worker, independent contractor, and/or freelancer. An employer and/or hiring entity can obtain information regarding the work, temporary assignment, and/or project or assignment, schedules for any individual or entity utilizing the present invention. An employer and/or hiring entity may hire and/or reserve the time of and/or the services of, the individual and/or entity via the present invention.

The present invention can also provide an individual and/or an employer and/or hiring entity with data and/or information regarding the latest developments and/or current developments in the employment and/or recruiting fields, including, but not limited to, growth areas, demand information for certain jobs and/or professions, salary surveys, etc. In this manner, the present invention can provide information for allowing an individual, an employer and/or hiring entity to determine the state of the job market and/or to utilize this information in any appropriate manner so as to minimize the time, effort and/or expense of job searching efforts and/or recruitment efforts.

The present invention can also provide notification to any of the individuals, employers and/or hiring entities, when and/or if information is being and/or has been requested about he, she or it. The present invention can also provide the identity of the party requesting the information to the respective individual, employer and/or hiring entity.

The present invention can also provide for the blockage of any access, authorized and/or unauthorized, to any of the data and/or information utilized in conjunction with the present invention and/or concerning any individual, entity, employer, and/or hiring entity, utilizing the present invention. The present invention can also provide any data and/or information specifically, generically, generally, such as for a group, and/or statistically and/or in any other manner.

The present invention can also be utilized so as to prevent certain individuals and/or entities, employers and/or hiring entities, from accessing the data and/or information about any other individual, entity, employer, and/or hiring entity.

The operation of the present invention may be triggered by any type of pre-specified event and/or occurrence which may

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include a new individual listing, a new employer and/or hiring entity listing, a departure of an individual from an employer, the completion of a job, project and/or assignment, changes in an economic factor(s), changes in a market factor(s), an increase in an unemployment rate, the unemployment of an individual, a detected need for jobs having a certain skill(s), and/or any other event, situation, and/or any other occurrence which may be deemed to have some relationship and/or effect related to job searching efforts and/or recruitment efforts.

The apparatus and method of the present invention can also be utilized for performing and/or for facilitating the provision of recruitment services for schools, colleges, universities, and/or any organizations of any kind.

The apparatus of the present invention can also be programmed in order to be self-activating and/or activated automatically.

The apparatus of the present invention can also be programmed in order to generate and/or transmit any of the e-mails, electronic message transmissions, electronic notification transmissions, and/or any of the communications, described herein between any of the parties utilizing the present invention.

The present invention can be utilized in conjunction with intelligent agents, software agents and/or mobile agents, in order to provide for these respective agents to act for, or on behalf of, a respective party.

The present invention can also be utilized in order to generate electronic catalogs and/or electronic coupons for advertising and/or for publicizing the availability of individuals, independent contractors, and/or freelancers, for work, and/or for advertising and/or publicizing jobs, employment positions, projects and/or assignments, which employers and/or hiring entities are seeking to fill.

The present invention can also be utilized in order to monitor, record and/or keep track of, all offers and/or rejections involving any and all jobs, employment positions, projects and/or assignments, which occur in conjunction with and/or via use of the present invention. The information compiled can be provided to individuals, employers, and/or recruiters for use in any appropriate and/or suitable manner.

The present invention, can also store individual and/or employer data and/or information with various and/or varying levels of specificity and/or confidentiality.

The apparatus and method of the present invention can be utilized as an electronic and/or network-based recruiting apparatus and/or clearinghouse. The present invention can be utilized in order to reduce recruiting costs and so-called head-hunter fees to employers as well as job search efforts and/or expenses to individuals. The present invention provides an apparatus and a method for eliminating intermediaries and/or unnecessary efforts and/or expense involved in job search and/or recruitment processes for any of the individuals, employers and/or hiring entities described herein.

The present invention can also be utilized in conjunction with the bartering and/or trading of services between parties, such as individuals, employers, and/or hiring entities.

The present invention also provides an apparatus and a method for providing enhanced confidentiality during the job-search, recruitment, and/or related interactions, negotiations and/or other dealings between the parties involved in same. The present invention can monitor and/or record any interaction between any of the parties which utilize the present invention.

The present invention can also be utilized in conjunction with job searches and/or recruiting efforts for any kind of job, profession, employment position, project, and/or assignment,



and/or for any permanent, temporary, independent contractor, and/or freelance, job, employment position, project, and/or assignment.

The present invention can utilize electronic commerce technologies and security methods, techniques and technologies.

Accordingly, it is an object of the present invention to provide an apparatus and a method for providing job search services, recruitment services, and/or recruitment-related services.

It is another object of the present invention to provide an apparatus and a method for providing job search services, recruitment services, and/or recruitment-related services, in a network environment.

It is still another object of the present invention to provide an apparatus and a method for providing job search services, recruitment services, and/or recruitment-related services, on and/or over the Internet, the World Wide Web, and/or any other communication network.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides links to various data and/or information which may be requested, required, and/or desired, by the respective parties involved in job searching activities and/or in recruitment activities.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which utilizes databases which can be linked to external information sources.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which facilitates the posting of data and/or information by respective individuals and/or employers and/or hiring entities.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, which allows an individual to perform job searches.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, which allows an employer and/or hiring entity to perform recruitment searches.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which notifies an individual of job and/or employment opportunities which may be of interest to the individual when same become available.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which notifies an employer and/or hiring entity of individuals, prospective employees, independent contractors, permanent workers, temporary workers, and/or freelancers, who or which may be of interest to the employer and/or hiring entity when these individuals and/or entities become available.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which utilizes data and/or information which is specific, generic, and/or general, to an individual, to an employer, and/or to hiring entity.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which facilitates providing notification to an employer and/or hiring entity when a recruitment-related opportunity arises.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which facilitates providing notification to an individual when an employment-related opportunity arises.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides for the securing and/or the reserving of services of an individual, an independent contractor, and/or a freelancer.

It is still another object of the present invention to provide an apparatus and a method for providing job-searching services, recruitment services, and/or recruitment-related services, which provides notification of the availability of an individual, a prospective employee, a job applicant, an independent contractor, a temporary worker, and/or a freelancer, for a job, position, project, or assignment.

It is yet another object of the present invention to provide an apparatus and a method for providing job-searching services, recruitment services, and/or recruitment-related services, which provides notification of the availability of a job, an employment position, a project, and/or an assignment, with an employer and/or hiring entity.

It is another object of the present invention to provide an apparatus and a method of the providing job-searching services, recruitment services, and/or recruitment-related services, which utilizes electronic messages and/or e-mail messages which contain links to information and/or information sources which may be utilized in providing said information.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides for bidding and/or auctioning activities regarding said services.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides scheduling services and/or schedule management services for an individual, an independent contractor, a freelancer, an employer and/or hiring entity.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides information regarding developments related to the job-search and/or recruitment fields.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides notification to an individual, an independent contractor, a freelancer, and an employer and/or hiring entity, when data and/or information has been requested about them.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which can be utilized by an individual, an independent contractor, a freelancer, an employer and/or hiring entity, and/or a party acting on behalf of same.

It is another object of the present invention to provide an apparatus and a method for providing job searching services,

recruitment services, and/or recruitment-related services, which prevents access to certain data and/or information by certain parties.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services, which can be programmed to be self-activating and/or be activated automatically.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services and/or recruitment-related services which generates electronic messages, e-mail messages, telephone calls, pager calls, pager messages, and/or other communication messages, automatically.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which utilizes intelligent agents, software agents, and/or mobile agents, for providing various services for, and/or for taking action on behalf of, a respective party.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides links and/or hyperlinks to information, products and/or services related thereto.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides automatic notification of, and/or announcements of, job openings, position openings, projects, and/or assignments, the availability of job applicants and/or the availability of goods and/or service providers, to respective parties.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which monitors, records, and/or provides notification of, any communications which take place and/or which may transpire between respective parties.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides for the generation of and/or the distribution of electronic catalogs and/or electronic coupons related to job search activities and/or recruitment activities.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides notification of job-search-related and/or recruitment-related events and/or occurrences.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which monitors, records and/or keeps track of, job search and/or recruitment activities of, and for, any of the respective parties.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides for the storage and/or the utilization of data and/or information with various and/or varying levels of confidentiality and/or specificity.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which is utilized in conjunction with the buying, selling, bartering and/or trading, of goods and/or services.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides enhanced confidentiality during the respective job search, recruitment, and/or related activities and/or interactions.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which monitors and/or records communications, interactions, and/or dealings, between parties.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which provides statistical information pertaining to job searches, recruitment activities, and/or related activities.

It is another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which can be utilized in conjunction with independent job search efforts and/or independent recruitment efforts.

It is still another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, which can administer a financial account for, and/or on behalf of a party, and which can effect a payment from one party to another, and/or receive a payment for, and/or on behalf of, a party.

It is yet another object of the present invention to provide an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, for schools, colleges, universities, and/or any organizations of any kind.

Other objects and advantages of the present invention will be apparent to those skilled in the art upon a review of the Description of the Preferred Embodiment taken in conjunction with the Drawings which follow.

#### BRIEF DESCRIPTION OF THE DRAWINGS

In the Drawings:

FIG. 1 illustrates the apparatus of the present invention, in block diagram form;

FIG. 2 illustrates the central processing computer of the apparatus of FIG. 1, in block diagram form;

FIG. 3 illustrates the individual computer of the apparatus of FIG. 1, in block diagram form;

FIG. 4 illustrates the employer computer of the apparatus of FIG. 1, in block diagram form;

FIGS. 5A to 5E illustrate a preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form;

FIGS. 6A to 6E illustrate another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form;

FIG. 7 illustrates another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form; and

FIG. 8 illustrates another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form.

#### DESCRIPTION OF THE PREFERRED EMBODIMENTS

The present invention is directed to an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, and, in particular, to an apparatus and a method for providing job searching services, recruitment services, and/or recruitment-related services, for effectuating services and activities involving and/or

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related to job search efforts and/or recruitment efforts, by, and/or for, individuals, independent contractors, freelancers, employers and/or hiring entities.

The apparatus and method of the present invention provides services which facilitate individual, independent contractor, and/or freelancer, job search efforts, employer and/or hiring entity recruitment, search and/or placement efforts, and/or related efforts. The present invention also provides a centralized apparatus, and/or a clearinghouse, for providing and/or for facilitating the herein-described efforts, services, and/or activities.

The apparatus and method of the present invention can be utilized by individuals and entities desirous of identifying and/or securing an employment relationship, either permanent and/or temporary, an independent contractor relationship, and/or a freelancer relationship, with an employer and/or hiring entity. The apparatus and method of the present invention can also be utilized by employers and/or hiring entities desirous of searching for, and/or for securing the services of, an individual, an independent contractor, and/or a freelancer, either permanently and/or temporarily.

The present invention can also be utilized by an employment agency, an agent, a recruiter, a so-called "headhunter", a career consultant, a personal manager, and/or an intermediary, to assist an individual, an independent contractor, and/or a freelancer, in searching for a job, a position, a project, and/or assignment. The present invention can also be utilized to assist an employer and/or hiring entity to search for an individual, an independent contractor, and/or a freelancer. The present invention can also be utilized in order to provide agency services for any of the herein described parties, such as, but not limited to, individuals, independent contractors, freelancers, employers, hiring entities, recruiters, and/or headhunters.

The terms "individual", "employee", "prospective employee", "applicant", "contractor", "independent contractor", "temp", "temporary employee", "freelancer" etc., as used herein, refer to any individual, person, company, business entity, independent contracting business or entity, employment agent and/or agency, and/or any other entity, seeking to identify, find, and/or secure, a job, an employment position, a project, and/or an assignment, for himself, herself, itself, and/or for another.

The terms "employer", "hiring entity", "company", "business", etc., as used herein, refer to any employer, hiring entity, individual, person, company, business entity, and/or other entity, seeking to identify, find, or secure the services of, an individual, independent contractor, and/or freelancer, for itself and/or for another.

The terms "recruiter", "headhunter", "employment agency", "placement agency", "employment consultant", "placement consultant", etc., refer to any individual, person, and/or entity, who or which acts as an intermediary for, and/or on behalf of, any party or parties described herein, in order to initiate and/or to effectuate a job search and/or a recruitment activity and/or any searches or activities which result, and/or which proceed, therefrom.

Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. Provisional Patent Application Ser. No. 60/146,776 which teaches an apparatus and method for providing job searching services, recruitment services and/or recruitment-related services.

The apparatus and method of the present invention can be utilized in a network environment in order to effectuate any of the services described herein.

FIG. 1 illustrates a preferred embodiment of the apparatus of the present invention which is designated generally by the

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reference numeral **100**. In FIG. 1, the apparatus **100** includes a central processing computer or server computer **10**. The central processing computer **10** provides control over the apparatus **100** and provides services for the various computers associated with the various individuals employees, contractors, independent contractors, freelancers, employers, hiring entities, recruiters, etc., who or which utilize the apparatus **100** of the present invention.

The central processing computer **10**, in the preferred embodiment, can be any suitable computer, network computer, or computer system, for providing service for the various computers associated with the individuals, employees, independent contractors, freelancers, employers, hiring entities, recruiters, etc., who or which utilize the present invention.

In the preferred embodiment, any number of central processing computers **10** may be utilized in order to provide the servicing functions described herein. The central processing computer(s) **10** may be linked to other central processing computers or may be stand alone devices. A given central processing computer **10** may service a particular geographic area or certain individuals employees, independent contractors, freelancers, employers, hiring entities, recruiters, etc., and/or groups thereof. A central processing computer **10** may also be dedicated to service any one or group of the above described individuals and/or entities.

The apparatus **100**, in the preferred embodiment, also includes one or more individual computers **20**. Each individual computer **20** may be a personal computer or other communication device suitable for allowing the individual to interact with the central processing computer(s) **10**. Each individual computer **20** can be utilized to transmit information to the central processing computer **10** and to receive information from the central processing computer **10** via the communication network.

The individual computer **20** can be a personal computer, a hand-held computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and/or a watch. In the present invention, any number of individual computers **20** may be utilized. In the present invention, each individual or entity utilizing the present invention may have one or more individual computers **20** associated therewith.

The apparatus **100**, in the preferred embodiment, also includes one or more employer computers **30**. Each employer computer **30** may be a personal computer or other communication device suitable for allowing the employer to interact with the central processing computer(s) **10**. Each employer computer **30** can be utilized to transmit information to the central processing computer **10** and to receive information from the central processing computer **10** via the communication network.

The employer computer **30** can be a personal computer, a hand-held computer, a palmtop computer, a laptop computer, a personal communication device, a personal digital assistant, a telephone, a digital telephone, a display telephone, a video telephone, a videophone, a 3G telephone, a television, an interactive television, a beeper, a pager, and/or a watch. In the preferred embodiment, any number of employer computers **30** may be utilized. In the present invention, each employer and/or hiring entity utilizing the present invention may have one or more employer computers **30** associated therewith.

Each of the individual computer(s) **20** and each of the employer computer(s) **30** described herein can transmit information to each central processing computer **10** as well as



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receive information from each central processing computer **10**. In addition, each individual computer **20** can also transmit information to any employer computer **30** as well as receive information from any employer computer **30**. In a similar manner, each employer computer **30** can transmit information to any individual computer **20** as well as receive information from any individual computer **20**.

The central processing computer(s) **10**, the individual computer(s) **20**, and/or the employer computer(s) **30** can communicate with one another, and/or be linked to one another, over a communication network and/or a wireless communication network. In the preferred embodiment, the present invention is utilized on, and/or over, the Internet and/or the World Wide Web. The present invention, in the preferred embodiment, can also utilize wireless Internet and/or World Wide Web services, equipment and/or devices. The central processing computer(s) **10**, in the preferred embodiment, has a web site or web sites associated therewith.

Although the Internet and/or the World Wide Web is the preferred communication system and/or medium utilized, the present invention, in all of the embodiments described herein, can also be utilized with any appropriate communication systems including, but not limited to, network communication systems, telephone communication systems, cellular communication systems, digital communication systems, personal communication systems, personal communication services (PCS) systems, satellite communication systems, broad band communication systems, low earth orbiting (LEO) satellite systems, and/or public switched telephone networks or systems.

In the preferred embodiment, each of the central processing computer(s) **10**, the individual computer(s) **20**, and employer computer(s) **30**, can transmit data and/or information using TCP/IP, as well as any other Internet and/or World Wide Web, protocols.

The individual computer **20**, in the preferred embodiment, can be linked directly or indirectly with a central processing computer **10**. The employer computer **30**, in the preferred embodiment, can also be linked directly or indirectly with a central processing computer **20**. In any of the preferred embodiments described herein, any individual computer(s) **20** and any employer computer(s) **30** can be linked directly or indirectly with one another so as to facilitate a direct or indirect bi-directional communication between an individual computer(s) **20** and an employer computer(s) **30**.

FIG. 2 illustrates the central processing computer **10**, in block diagram form. The central processing computer **10**, in the preferred embodiment, is a network computer or computer system which is utilized as a central processing computer such as an Internet server computer and/or a web site server computer. In the preferred embodiment, the central processing computer **10** includes a central processing unit or CPU **10A**, which in the preferred embodiment, is a microprocessor. The CPU **10A** may also be a microcomputer, a mini-computer, a macro-computer, and/or a mainframe computer, depending upon the application.

The central processing computer **10** also includes a random access memory device(s) **10B** (RAM) and a read only memory device(s) **10C** (ROM), each of which is connected to the CPU **10A**, a user input device **10D**, for entering data and/or commands into the central processing computer **10**, which includes any one or more of a keyboard, a scanner, a user pointing device, such as, for example, a mouse, a touch pad, and/or an audio input device and/or a video input device, etc., if desired, which input device(s) are also connected to the

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CPU **10A**. The central processing computer **10** also includes a display device **10E** for displaying data and/or information to a user or operator.

The central processing computer **10** also includes a transmitter(s) **10F**, for transmitting signals and/or data and/or information to any one or more of the individual computer(s) **20** and employer computer(s) **30** which may be utilized in conjunction with the present invention. The central processing computer **10** also includes a receiver **10G**, for receiving signals and/or data and/or information from any one or more of the individual computer(s) **20** and/or employer computer(s) **30**.

The central processing computer **10** also includes a database(s) **10H** which contains data and/or information pertaining to the individuals, employees, independent contractors, freelancers, and/or other persons or entities, who or which utilize the present invention in order to find or secure a job, project, or assignment. The database **10H** also contains data and/or information pertaining to the employers and/or hiring entities who or which utilize the present invention to recruit individuals, independent contractors, or freelancers, in order to satisfy their needs and/or requirements. The database **10H** may also contain data and/or information pertaining to recruiters, headhunters, management consultants, managers, and/or other intermediaries, and/or third parties, who or which utilize the present invention in order to act on behalf of any of the individuals, independent contractors, freelancers, employers and/or hiring entities, who attempt to match the needs of any of the parties described herein.

Individual data and/or information, which can be stored in the database **10H**, can include, but not be limited to, the individual's name, sex, age, address, educational information, schooling, work experience, work history, skills, work-related skills, past employers, references, salary history, salary requirements, benefit requirements, school transcripts, links to registrar's offices and/or databases at respective school(s) and/or to a transcript database and/or electronic storage facility, medium, and/or device, which stores transcripts and/or other scholastic and/or educational information about an individual(s), work samples, reference letters, recommendation letters, pictures, video clips, and/or other relevant and/or pertinent information. In this manner, the present invention facilitates more efficient access to data and/or information pertaining to an individual(s).

In order to preserve confidentiality and/or so as to maintain an anonymous identity, each of the above-described types of information can be described in a generic manner, i.e., a school can be listed as a large Ivy League institution as opposed to being named and positively identified. For example, an individual can be described as being a mid-level engineer having experience in computer programming, etc.

Each and every field of data and/or information can be represented by a corresponding generic term or terms so as to keep the true information masked for a desired time period or during a certain period of processing. The individual data and/or information can also include certain jobs and/or events and/or occurrences for which the individual may desire to be notified. Any of the data and/or information may have hyperlinks associated therewith for directing a party to a separate and/or a different data and/or information source. The information source may be external from the central processing computer **10**.

The database **10H** can also contain data and/or information restricting access to any of the data and/or information stored in the database **10H**. For example, an individual, independent contractor, freelancer, employer, and/or hiring entity, may, at any time, may restrict access by any party, to any of their

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respective data and/or information. For example, an individual may prevent a current employer from accessing his or her data and/or information, thereby maintaining the confidentiality of a job search. Similarly, any party may restrict the availability of any of its data and/or information from any other party or parties.

In the cases of temporary employees, self-employed individuals, professionals, independent contractors, freelancers, etc., the database 10H can contain information regarding the schedules and/or work calendars for any of these individuals, employees, and/or entities. In this regard, each individual, employee, and/or entity in this category may store and have maintained by the apparatus 100, a work schedule and/or working calendar which can provide information regarding days and/or time periods of employment and/or engagement as well as days and/or time periods of availability.

The database 10H can also contain information pertaining to employers whom an individual will readily work for if the employer should need and/or request the individual. The individual data and/or information can also include employers and/or hiring entities whom the individual, independent contractor, or freelancer, has agreed in advance to work for, as well as employers and/or hiring entities whom the individual has decided in advance not to work for. The database 10H can also include information regarding which employers and/or hiring entities may access an individual's data and/or information as well as those employers and/or hiring entities who may not access an individual's data and/or information.

The database 10H also includes data and/or information about employers who or which utilize the present invention which information includes, but is not limited to, employer name, company name, job offerings, job openings, job(s) or position(s) needed to be filled, job(s) or position(s) desired to be filled, employer size, employer location, regional location, jobs or positions employed, benefits offered, employer history, salary information, compensation information, customer information, supplier information, information from past employees, information from current employees, past and/or current employment agencies or recruiter representing the employer, types of positions, including but not limited to permanent and/or temporary positions, references, pictures of facilities, video clips, fringe benefits, work hours, work requirements, recommendation letters, salary and/or compensation information.

The data and/or information contained in the database 10H can also include information concerning events, occurrences, availability of an applicant or applicants and/or any other information of which the employer may wish to be notified.

As in the case with individuals, in order to preserve confidentiality and/or so as to maintain an anonymous identity, each of the above-described types of information can be described in a generic manner, i.e., an employer can be listed as a large computer manufacturer as opposed to being named and positively identified.

Each and every field of data and/or information, described herein as being stored in the database 10H and/or otherwise utilized by the present invention, can be represented by a corresponding generic term or terms so as to keep the true information masked for a desired time period or during a certain period of processing. The employer data and/or information can also include events and/or occurrences for which the employer may desire to be notified. Any of the data and/or information stored in the database 10H may have hyperlinks associated therewith for directing a party to a separate and/or to a different data and/or information source, which may also be external from the central processing computer 10.

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The employer data and/or information can also include work schedules and/or work calendars which provide information regarding when the employer will be in need of the assistance of and/or the services of individuals, independent contractors, temporary employees, and/or freelancers. The database 10H can contain information regarding the schedules and/or work calendars providing notification of the human resource and/or employee requirements for the employer and/or hiring entity thereby providing information regarding days and/or time periods when it will require the assistance of individuals, independent contractors and/or freelancers.

The database 10H may also contain information regarding which individuals, independent contractors, and/or freelancers, may be approved, in advance, for hiring and/or for working for the employer and/or hiring entity, as well as data and/or information regarding which individuals, independent contractors, and/or freelancers, may be prohibited, in advance, from being hired by, and/or from working for, the employer and/or hiring entity. The database 10H may also contain information regarding which individuals, independent contractors, and/or freelancers, may obtain information about the employer and/or hiring entity as well as information regarding those individuals who may be prohibited from obtaining such information. The database 10H may also contain information regarding which individuals, independent contractors, and/or freelancers, may apply for a job, position, project, or assignment, with an employer and/or hiring entity as well as information regarding those individuals who may be prohibited from so applying.

The database 10H may also contain data and/or information pertaining to an employment agency, recruiters; headhunters, agents, managers, and/or other third party intermediaries (hereinafter "recruiter"), who or which attempt to bring individuals and employers together so as to facilitate the fulfillment of the needs of the respective parties. The information can include, but not be limited to, the recruiter's name, location, types of positions filled by same, information from past clients, references, past dealings and/or deals with an employer and/or hiring entity, salary histories of past deals, etc.

As in the case with individuals and employers, in order to preserve confidentiality and/or so as to maintain an anonymous identity, each of the above-described types of information can be described in a generic manner, i.e., a recruiter and/or any information pertaining thereto can be described generically, i.e. a legal recruiter specializing in placing bankruptcy attorneys, etc., as opposed to being named and positively identified.

Each and every field of data and/or information can be represented by a corresponding generic term or terms so as to keep the true information masked for a desired time period or during a certain period of processing. The recruiter data and/or information can also include events and/or occurrences for which the recruiter may desire to be notified. Any of the data and/or information stored in the database 10H may have hyperlinks associated therewith for directing a party to a separate and/or a different data and/or information source, which may also be external from the central processing computer 10.

The database 10H may also contain any other information which may be relevant, pertinent, useful, and/or desired, for facilitating the operation of the apparatus and method of the present invention as described herein and/or as related thereto.

The database 10H, in the preferred embodiment, is a database which may include individual databases or collections of

databases, with each database being designated to store any and all of the data and/or information described herein.

The database **10H** may also contain data and/or information concerning past placements and/or transactions with such data and/or information being stored after each placement and/or transaction which occurs via the apparatus and method of the present invention. Any and all data and/or information can be stored regarding transactions which occur via the present invention as well as those transactions which occur independently of the present invention. The data and/or information can then be compiled and processed using statistical calculations in order to update the stored historical placement and/or transaction data and/or information with such data and/or information being made available to users of the apparatus **100**. Applicant hereby incorporates by reference herein the teachings of *Basic Business Statistics Concepts and Applications*, Mark L. Berenson and David M. Levine, 6<sup>th</sup> Edition, Prentice Hall 1996.

The database **10H** may also contain data and/or information concerning attrition rates at individual employers and/or hiring entities, as well as in different fields and/or market sectors, salary information, salary surveys for particular jobs, professions, etc., including salary, benefits, and/or other compensation, data and/or information for various experience levels, skill levels, skills and abilities, educational credentials, and/or other data and/or information which may be utilized by any of the individuals and/or employers described herein, by job or profession type, by market sector, by type of employer, and/or by location and/or geographic region.

The database **10H** may also contain data and/or information regarding the latest developments and/or current developments in the employment and/or recruiting field, including, but not limited to, growth areas, demand information for certain jobs and/or professions, etc.

The data and/or information which is stored in the database **10H**, or in the collection of databases, can be linked via relational database techniques, to the respective employer computers **30** and/or individual computers **20** and/or via any appropriate database management techniques. The data and/or information, in the preferred embodiment, can be updated via inputs from the respective individual computers **20**, and/or employer computers **30**, and/or from any other information source, at any time. Information updates can also be provided from other information sources via the communication network.

The database **10H**, or collection of databases, may be updated by each of the respective individuals, employers, or by an administrator and/or operator of the central processing computer **10**, and/or by any other third party, in real-time, and/or via dynamically linked database management techniques. The data and/or information stored in the database **10H** can also be updated by external sources. The database **10H** will contain any and all information deemed necessary and/or desirable for providing all of the processing and/or services and/or functions described herein. Applicant hereby incorporates by reference herein the subject matter of *Fundamentals of Database Systems*, by Ramez Elmasri and Shamkant B. Navathe, 2<sup>nd</sup> Ed., Addison-Wesley Publishing Company, 1994.

The database **10H** can also contain any information needed for corresponding with any of the individuals, independent contractors, freelancers, employers and/or hiring entities, and/or recruiters, described herein, such as their respective addresses, telephone numbers, e-mail addresses, pager number, and/or any other information for facilitating a communication with any of these respective parties.

The database **10H** can also include employer-related data and/or information, job and/or position-related information, individual, independent contractor and/or freelancer, data and/or information, recruiter, headhunter, and/or third party intermediary-related information, and/or any other data and/or information needed and/or desired for performing any of the herein-described methods and features of the present invention.

With reference once again to FIG. 2, the central processing computer **10** also includes an output device **10I** such as a printer, a modem, a fax/modem, or other output device, for providing data and/or information to the operator or user of the central processing computer **10** or to a third party or third party entity.

In the preferred embodiment, each of the individual computer(s) **20** and the employer computer(s) **30**, include the same, similar, or analogous, components and/or peripheral devices as described herein for the central processing computer **10**. In this manner, any individual computer(s) **20** or employer computer(s) **30**, may be the same as, or be similar to, the central processing computer **10**. In this regard, and depending upon the application and/or individual and/or employer requirements, each of the individual computer(s) **20** and/or each of the employer computer(s) **30** can have the same or similar components as the central processing computer **10**.

FIG. 3 illustrates the individual computer **20**, in block diagram form. The individual computer **20**, in the preferred embodiment, is a network computer or computer system which is utilized to access and/or to communicate with the central processing computer **10**. In the preferred embodiment, the individual computer **20** includes a central processing unit or CPU **20A**, which in the preferred embodiment, is a microprocessor. The CPU **20A** may also be a microcomputer, a minicomputer, a macro-computer, and/or a mainframe computer, depending upon the application.

The individual computer **20** also includes a random access memory device(s) **20B** (RAM) and a read only memory device(s) **20C** (ROM), each of which is connected to the CPU **20A**, a user input device **20D**, for entering data and/or commands into the individual computer **20**, which includes any one or more of a keyboard, a scanner, a user pointing device, such as, for example, a mouse, a touch pad, and/or an audio input device and/or a video input device, etc., if desired, which input device(s) are also connected to the CPU **20A**. The individual computer **20** also includes a display device **20E** for displaying data and/or information to a user or operator.

The individual computer **20** also includes a transmitter(s) **20F**, for transmitting signals and/or data and/or information to any one or more of the central processing computer(s) **10** and to the employer computer(s) **30**. The individual computer **20** also includes a receiver **20G**, for receiving signals and/or data and/or information from any one or more of the central processing computer(s) **10** and/or the employer computer(s) **30**.

The individual computer **20** also includes a database(s) **20H** which can contain any and/or all of the data and/or information described herein with regards to the database **10H** of the central processing computer **10**. The database **20H** can also contain data and/or information personal to an individual or group of individuals, as well as data and/or information concerning the work schedule(s) and/or work calendar(s) for the individual and/or group of individuals for which the individual computer(s) **20** is/are associated. This data and/or information can also include information concerning when the individual is scheduled to work and/or when the individual is available to take work assignments.



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With reference once again to FIG. 3, the individual computer 20 also includes an output device 20I such as a printer, a modem, a fax/modem, or other output device, for providing data and/or information to the operator or user of the individual computer 20 or to a third party or third party entity.

FIG. 4 illustrates the employer computer 30, in block diagram form. The employer computer 30, in the preferred embodiment, is a computer or computer system which is utilized to access and/or to communicate with the central processing computer 10. In the preferred embodiment, the employer computer 30 includes a central processing unit or CPU 30A, which in the preferred embodiment, is a microprocessor. The CPU 30A may also be a microcomputer, a mini-computer, a macro-computer, and/or a mainframe computer, depending upon the application.

The employer computer 30 also includes a random access memory device(s) 30B (RAM) and a read only memory device(s) 30C (ROM), each of which is connected to the CPU 30A, a user input device 30D, for entering data and/or commands into the employer computer 30, which includes any one or more of a keyboard, a scanner, a user pointing device, such as, for example, a mouse, a touch pad, and/or an audio input device and/or a video input device, etc., if desired, which input device(s) are also connected to the CPU 30A. The employer computer 30 also includes a display device 30E for displaying data and/or information to a user or operator.

The employer computer 30 also includes a transmitter(s) 30F, for transmitting signals and/or data and/or information to any one or more of the central processing computer(s) 10 and individual computer(s) 20. The employer computer 30 also includes a receiver 30G, for receiving signals and/or data and/or information from any one or more of the central processing computer(s) 10 and/or the individual computer(s) 20.

The employer computer 30 also includes a database(s) 30H which can contain any and/or all of the data and/or information described herein with regards to the database 10H of the central processing computer 10. The database 30H can also contain data and/or information concerning a particular employer and/or hiring entity and/or groups of employers and/or hiring entities, as well as data and/or information concerning the work schedule(s) and/or work calendar(s), including project schedules and/or calendars, for the employer and/or hiring entity, or groups thereof, for which the employer computer 30 is associated. This data and/or information can also include information concerning when the employer may be in need of individuals, independent contractors, and/or freelancers, and/or when the employer and/or hiring entity may not be in need of same.

With reference once again to FIG. 4, the employer computer 30 also includes an output device 30I such as a printer, a modem, a fax/modem, or other output device, for providing data and/or information to the operator or user of the individual computer 20 or to a third party or third party entity.

The databases 20H and 30H of the individual computer(s) 20 and the employer computer(s) 30, respectively, can contain any and/or all of the data and/or information which is stored and/or contained in the database 10H.

The database 10H, or collection of databases which form the database 10H, as well as any database 20H and/or 30H, and/or any other database(s) described herein, can be implemented by utilizing database software and/or spreadsheet software, such as, for example database software by Oracle®, Microsoft® Access® and/or Microsoft® Excel®, or any other suitable database or spreadsheet software programs and/or systems.

The data and/or information can be provided by the various employers, hiring entities, individuals, independent contrac-

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tors, freelancers, applicants, recruiters, headhunters, third party intermediaries, and/or the operator and/or the administrator of the apparatus 100, and can be uploaded to, downloaded from, and/or be stored and/or be resident on any of the central processing computer(s) 10, the individual computer(s) 20, and/or the employer computer(s) 30.

In the preferred embodiment, wherein the apparatus 100 is utilized over the Internet and/or the World Wide Web, hyperlinks and/or other data and/or information links and/or linking methods and/or devices, can be utilized in order to provide an additional mechanism by which any of the individual computers 20 and/or any of the employer computers 30, can access and/or communicate with any other individual computer 20, employer computer 30 as well as the central processing computer. Any and/or all of the central processing computer 10, the individuals computers 20, and/or the employer computers 30, describe herein, can also be linked to, and/or can access and/or communicate with, any external computer, computer system, and/or information source (not shown), including, but not limited to, school registrar office computers, recruiter computers, employment agency computer, in order to access and/o obtain information therefrom.

The apparatus 100 and the method of the present invention can be utilized to perform various recruitment and/or recruitment-related services and/or functions. The present invention can be utilized by an individual, an independent contractor, and/or a freelancer, in order to search for, and/or to apply for, a job, a position, a project, and/or an assignment. The present invention can also be utilized by an employer and/or hiring entity in order to search for, and/or to recruit, an individual, an independent contractor, and/or a freelancer, in order to fill a job, a position, a project, and/or an assignment.

The present invention can also be utilized by a recruiter, a headhunter, and/or a third party intermediary, in order to assist a respective individual, independent contractor, and/or freelancer, search for a job, a position, a project, and/or an assignment, as well as to assist an employer and/or a hiring entity to search for, and/or to recruit, an individual, an independent contractor, and/or a freelancer, in order to fill a job, a position, a project, and/or an assignment.

The data and/or information which is stored in the database 10H, as well as stored in any of the databases 20H and/or 30H, can be linked via any suitable data linking techniques such as, for example, dynamically linked lists (DLLs), linked lists, and object links embedded (OLE's).

In any and all of the embodiments described herein, each of the individual computers 20, the central processing computer(s) 10 and the employer computers 30 can communicate with one another via electronic submissions, electronic form submissions and/or transmissions, e-mail transmissions, facsimile transmissions, telephone messages, telephone calls, physical mail delivery, and/or via any other suitable communication technique, medium, or method.

In any and all of the embodiments described herein, employers and other hiring entities can post and/or list information regarding jobs, employment positions, temporary positions, assignments, freelance assignments, contracting assignments (hereinafter "jobs"), as well as any other assignments, projects, and/or efforts which require and/or which may require the services of individuals, independent contractors, freelancers, and/or temporary employees, etc.

Data and/or information regarding the above-described jobs, employment positions, assignments, etc., can be stored in the database 10H of the central processing computer 10. The data and/or information can also be stored in the database 20H of any individual computer 20 and/or in the database 30H of any employer computer 30.

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Individuals, job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc., can also post and/or list data and/or information regarding themselves with the database 10H of the central processing computer 10. As in the case with employers and/or hiring entities, data and/or information regarding these Individuals, job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc., can also be stored in the database 20H of any individual computer 20 and/or in the database 30H of any employer computer 30.

Recruiters and/or other third party intermediaries described herein can also store data and/or information regarding any of the individuals, employers and/or hiring entities, whom they represent, which data and/or information can also be stored in the database 10H of the central processing computer 10 as well as the database 20H of the individual computer 20 and/or the database 30H of the employer computer 30. A recruiter or third party intermediary may utilize an individual computer 20 to access and/or utilize the present invention.

The apparatus and method of the present invention can be utilized in many preferred embodiments to provide job search services, recruitment services, and/or recruitment-related services. FIGS. 5A to 5E illustrate a preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form. FIGS. 5A to 5E illustrate a method for using the apparatus 100, for assisting individuals, job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc. (hereinafter referred to collectively as "individual" or "individuals"), to perform job searches, for employment positions, contracting jobs, temporary assignments and/or freelance assignments (hereinafter referred to as a "job" or "jobs").

The operation of the apparatus 100 commences at step 200. At step 201, the individual accesses the central processing computer 10 via the individual computer 30. The individual may, at step 202, enter data and/or information regarding his or her education, skills, work experience, objectives and/or any other data and/or information pertinent to a job search. Step 202 may be dispensed with if this information has been entered by the individual previously. The data and/or information can be entered specifically and/or generically. If entered specifically, the individual can also enter generic data and/or information to preserve confidentiality, if desired.

Data and/or information may also be entered into the central processing computer 10 by uploading and/or downloading, whichever the case may be, a resume and/or any other pertinent data and/or information. Data and/or information may also be obtained via a questionnaire which may be provided and/or answered on-line. Any and/or all of such data and/or information may be stored in the database 10H.

The central processing computer 10 can also process the specific data and/or information in order to convert and/or separately store same as generic data and/or information. Any and all data and/or information stored at step 202, and/or previously, can be stored in the database 10H of the central processing computer 10 and/or in the databases 20H and/or 30H, respectively, of the individual computer 20 and/or the employer computer 30, as appropriate. At step 203, the individual can choose to have the search proceed with specific data and/or information and/or generic data and/or information.

If, at step 204, it is determined that a search with specific data and/or information is selected, the central processing computer 10 will proceed to step 205 and proceed with the specific data and/or information. Thereafter, the operation

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will proceed to step 207. If, however, at step 204, it is determined that a search with specific data and/or information is not selected, the central processing computer 10 will proceed to step 206 and proceed with the generic and/or general data and/or information. Thereafter, the operation will proceed to step 207.

At step 207, the individual will enter his or her job search, including any search criteria, into the central processing computer 10 via the individual computer 20. At step 208, the central processing computer 10 will query the database of posted and/or listed jobs and generate a report or list of jobs which meet the individual's search criteria. At step 209, the central processing computer 10 will provide the individual with the report or list of available jobs either electronically and/or otherwise. The results of the search can also be provided to the individual by being displayed on the display device 20E and/or by being printed via the output device or printer 20I.

Thereafter, the individual will decide whether he or she wishes to apply for any of the jobs. At step 210, the individual can transmit information to the central processing computer 10 regarding which, if any, of the reported jobs he or she wishes to apply for. At step 211, the central processing computer 10 will determine whether the individual wants to apply for any of the reported jobs. If, at step 211, it is determined that the individual does not want to apply for any of the reported jobs, the central processing computer 10 will, at step 212, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, up to this point, including the actions of the individual. The operation of the apparatus 100 will thereafter cease at step 213.

If, at step 211, it is determined that the individual wants to apply for a reported job, the operation will proceed to step 214. At step 215, the individual data and/or information, whether specific, generic, and/or general, is transmitted to the employer and/or employer computer 30. Any data and/or information described as being transmitted between the parties, and/or between the respective computers, can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. The employer can review the data and/or information, at step 215, and transmit a response to the central processing computer 10 at step 216.

At step 217, the central processing computer 10 will process the employer's response and determine if the employer is interested in pursuing discussions with the individual. If, at step 217, it is determined that the employer is not interested in pursuing the individual, the central processing computer 10 will, at step 218, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point.

The data and/or information stored at step 218 is stored in the database 10H for later use or reference by any individual, employer, and/or operator or administrator of the apparatus 100. Some or all of the data and/or information stored in the database 10H may thereafter be transmitted to, and/or stored in, the database(s) 20H and/or 30H of the respective individual computer(s) 20 and/or employer computer(s) 30. The operation of the apparatus 100 will thereafter cease at step 219.

If, at step 217, it is determined that the employer is interested in pursuing discussions with the individual, then the



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central processing computer **10** will, at step **220**, notify the individual by transmitting a message to the individual, and/or to the individual computer **20** associated with the individual, so notifying the individual. The individual can review the data and/or information, at step **220**, and transmit a response to the central processing computer **10** at step **221**. If the employer's response had included a request for additional and/or more specific data and/or information, such as, but not limited to, a resume, references, work samples, salary requirements, salary history, transcripts, and/or requests for authorization to obtain any of the above, and/or any other information of interest to the employer, the individual's response, at step **221**, can include same and/or links to same. The operation of the apparatus will thereafter proceed to step **222**.

At step **222**, the central processing computer **10** will determine whether the individual is interested in pursuing the opportunity with the employer. If at step **222**, it is determined that the individual is not interested in pursuing the opportunity, the central processing computer will, at step **223**, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, operation of the apparatus will cease at step **224**.

If, at step **222**, it is determined that the individual is interested in pursuing the opportunity, the data and/or information in the individual's response will, at step **225**, be transmitted to the employer and/or the employer computer **30** associated with the employer. The employer can review the data and/or information, at step **225**, and transmit a response to the central processing computer **10** at step **226**. The response can include information as to whether the employer is interested in pursuing discussions with the individual.

At step **227**, the central processing computer **10** will process the employer's response in order to determine if the employer is still interested in pursuing the opportunity regarding the individual. If, at step **227**, it is determined that the employer is not interested in pursuing the opportunity regarding the individual, the central processing computer **10** will, at step **228**, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, the operation of the apparatus will cease at step **229**.

If, at step **227**, it is determined that the employer is interested in pursuing the opportunity with the individual, the central processing computer **10** will, at step **230**, put the employer and the individual in contact with each other by transmitting contact information to either or both of the employer and/or the individual. The contact information may include the individual's name, address, telephone number, fax number, e-mail, and/or any other contact information for the individual, and/or the employer's name, address, person to contact, contact individual at the employer, telephone number, fax number, e-mail, and/or any other contact information for the employer. The employer and the individual may thereafter proceed with the interview, employment screening, and/or recruitment, processes.

At step **231**, the central processing computer **10** can monitor the interview, employment screening, and/or recruitment, processes, which take place between the employer and the individual. At step **232**, the central processing computer **10**

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will record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, any information concerning whether a deal has been reached between the parties, any information concerning offers, counteroffers, rejected offers and/or rejected counteroffers, the time and date of the consideration, along with any notes made by the employer or individual, up to this point.

The data and/or information stored at step **232** is stored in the database **10H** for later use or reference by any individual, employer, and/or operator or administrator of the apparatus **100**. Some or all of the data and/or information stored in the database **10H** may thereafter be transmitted to, and/or be stored in, the database(s) **20H** and/or **30H** of the respective individual computer(s) **20** and/or employer computer(s) **30**. The operation of the apparatus **100** will thereafter cease at step **233**.

The operation of the apparatus **100** may be terminated by either the individual and/or the employer at any time. In this manner, a party may terminate discussions at any time. The individual and/or the employer may also, at any time, obtain information about, and/or perform research on, the opposite party by linking to said information and/or research via the central processing computer **10** and/or via links and/or hyperlinks which can be inserted in the various e-mails and/or electronic messages which are utilized and/or transmitted in conjunction with the present invention. The information and/or research can be obtained without interrupting the processing of the central processing computer **10**. In this manner, a party may obtain information and/or research about the opposite party, at any time, and without interrupting the processing of the central processing computer **10**.

The present invention in another preferred embodiment, can be utilized by an employer and/or hiring entity in order to search for and/or recruit individuals for jobs, employment positions, temporary assignments, projects, and/or freelance assignments, and/or for any other need. FIGS. **6A** to **6E** illustrate another preferred embodiment operation of the apparatus of FIG. **1**, in flow diagram form. FIGS. **6A** to **6E** illustrate a method for using the apparatus **100**, for assisting employers and/or hiring entities (hereinafter referred to as "employer") in searching for and/or for recruiting job applicants, prospective employees, employees, independent contractors, temporary workers, and/or freelancers, etc. (hereinafter referred to collectively as "individual"), to fill jobs, employment positions, contracting jobs, temporary assignments, freelance assignments, and/or other needs.

The operation of the apparatus **100** commences at step **300**. At step **301**, the employer accesses the central processing computer **10** via the employer computer **30**. The employer may, at step **302**, enter data and/or information regarding its requirements and/or needs, including, but not limited to, those related to hiring needs, and/or its requirements concerning educational credentials, skills, work experience, objectives, and/or any other data and/or information pertinent to a fulfilling its needs. Step **302** may be dispensed with if this information has been entered by the employer previously. The data and/or information can be entered specifically and/or generically. If entered specifically, the employer can also enter generic data and/or information to preserve confidentiality, if desired.

Data and/or information may also be entered into the central processing computer **10** by uploading and/or downloading, whichever the case may be, job descriptions and/or hiring needs and/or any other pertinent data and/or information. Data and/or information may also be obtained via a question-

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naire which may be provided and/or answered on-line. Any and/or all of such data and/or information may be stored in the database 10H.

The central processing computer 10 can also process the specific data and/or information in order to convert and/or separately store same as generic data and/or information. Any and all data and/or information stored at step 302, and/or previously, can be stored in the database 10H of the central processing computer 10 and/or in the databases 20H and/or 30H, respectively, of the individual computer 20 and/or the employer computer 30, as appropriate. At step 303, the employer can choose to have the search proceed with specific data and/or information and/or generic data and/or information.

If, at step 304, it is determined that a search with specific data and/or information is selected, the central processing computer 10 will proceed to step 305 and proceed with the specific data and/or information. Thereafter, the operation will proceed to step 307. If, however, at step 304, it is determined that a search with specific data and/or information is not selected, the central processing computer 10 will proceed to step 306 and proceed with the generic and/or general data and/or information. Thereafter, the operation will proceed to step 307.

At step 307, the employer will enter its recruitment search, including any search criteria, into the central processing computer 10 via the employer computer 30. At step 308, the central processing computer 10 will query the database of posted and/or listed individuals and generate a report or list of individuals who meet the employer's search criteria. At step 309, the central processing computer 10 will provide the employer with the report or list of available individuals either electronically and/or otherwise. The results of the search can also be provided to the employer by being displayed on the display device 30E and/or by being printed via the output device or printer 30I.

Thereafter, the employer will decide whether it wants to pursue any of the individuals identified in the search report. At step 310, the employer can transmit information to the central processing computer 10 regarding which, if any, of the reported individuals it wants to pursue. At step 311, the central processing computer 10 will determine whether the employer wants to pursue any of the individuals. If, at step 311, it is determined that the employer does not want to pursue any of the individuals, the central processing computer 10 will, at step 312, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, up to this point, including the actions of the employer. The operation of the apparatus 100 will thereafter cease at step 213.

If, at step 311, it is determined that the employer wants to pursue an individual, the operation will proceed to step 314. At step 315, the employer data and/or information, whether specific, generic, and/or general, is transmitted to the individual and/or individual computer 20. Any data and/or information described as being transmitted between the parties, and/or between the respective computers, can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. The individual can review the data and/or information, at step 315, and transmit a response to the central processing computer 10 at step 316.

At step 317, the central processing computer 10 will process the individual's response and determine if the individual is interested in pursuing discussions with the employer. If, at step 317, it is determined that the individual is not interested

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in pursuing the opportunity, the central processing computer 10 will, at step 318, record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the individual or employer, up to this point.

The data and/or information stored at step 318 is stored in the database 10H for later use or reference by any individual, employer, and/or operator or administrator of the apparatus 100. Some or all of the data and/or information stored in the database 10H may thereafter be transmitted to, and/or stored in, the database(s) 20H and/or 30H of the respective individual computer(s) 20 and/or employer computer(s) 30. The operation of the apparatus 100 will thereafter cease at step 319.

If, at step 317, it is determined that the individual is interested in pursuing discussions with the employer, then the central processing computer 10 will, at step 320, notify the employer by transmitting a message to the employer, and/or to the employer computer 30 associated with the employer, so notifying the employer. The employer can review the data and/or information, at step 320, and transmit a response to the central processing computer 10 at step 321. If the individual's response had included a request for additional and/or more specific data and/or information, such as, but not limited to, job description, firm resume, references, work samples, salary and benefits information, and/or requests for authorization to obtain any of the above, and/or any other information of interest to the individual, the employer's response, at step 321, can include same and/or links to same. The operation of the apparatus will thereafter proceed to step 322.

At step 322, the central processing computer 10 will determine whether the employer is interested in pursuing the opportunity with the individual. If at step 322, it is determined that the employer is not interested in pursuing the opportunity, the central processing computer will, at step 323, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, operation of the apparatus will cease at step 324.

If, at step 322, it is determined that the employer is interested in pursuing the opportunity, the data and/or information in the employer's response will, at step 325, be transmitted to the individual and/or the individual computer 20 associated with the individual. The individual can review the data and/or information, at step 325, and transmit a response to the central processing computer 10 at step 326. The response can include information as to whether the individual is interested in pursuing discussions with the employer.

At step 327, the central processing computer 10 will process the individual's response in order to determine if the individual is still interested in pursuing the opportunity. If, at step 327, it is determined that the individual is not interested in pursuing the opportunity regarding the employer, the central processing computer 10 will, at step 328, record and/or store this information, along with any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, the time and date of the consideration, along with any notes made by the employer or individual, up to this point. Thereafter, the operation of the apparatus will cease at step 329.

If, at step 327, it is determined that the individual is interested in pursuing the opportunity with the employer, the central processing computer 10 will, at step 330, put the individual and the employer in contact with each other by transmitting contact information to either or both of the individual and/or the employer. The contact information may include the employer's name, address, person to contact, contact individual at the employer, telephone number, fax number, e-mail, and/or any other contact information for the employer and/or the individual's name, address, telephone number, fax number, e-mail, and/or any other contact information for the individual. The employer and the individual may thereafter proceed with the interview, employment screening, and/or recruitment, processes.

At step 331, the central processing computer 10 can monitor the interview, employment screening, and/or recruitment, processes, which take place between the employer and the individual. At step 332, the central processing computer 10 will record and/or store any and/or all data and/or information regarding and/or pertinent to the search and/or the corresponding results, including information concerning the employer, the individual, any information concerning whether a deal has been reached between the parties, any information concerning offers, counteroffers, rejected offers and/or rejected counteroffers, the time and date of the consideration, along with any notes made by the employer or the individual, up to this point.

The data and/or information stored at step 332 is stored in the database 10H for later use or reference by any employer, individual, and/or operator or administrator of the apparatus 100. Some or all of the data and/or information stored in the database 10H may thereafter be transmitted to, and/or be stored in, the database(s) 20H and/or 30H of the respective individual computer(s) 20 and/or employer computer(s) 30. The operation of the apparatus 100 will thereafter cease at step 333.

The operation of the apparatus 100 may be terminated by either the employer and/or the individual at any time. In this manner, a party may terminate discussions at any time. The employer and/or the individual may also, at any time, obtain information about, and/or perform research on, the opposite party by linking to said information and/or research via the central processing computer 10 and/or via links and/or hyperlinks which can be inserted in the various e-mails and/or electronic messages which are utilized and/or transmitted in conjunction with the present invention. The information and/or research can be obtained without interrupting the processing of the central processing computer 10. In this manner, a party may obtain information and/or research about the opposite party, at any time, and without interrupting the processing of the central processing computer 10.

In another preferred embodiment, the present invention can be utilized to provide notification of job openings and/or job, contracting, freelancing, and/or temporary position, opportunities, to an individual and/or group of individuals. In this embodiment, the central processing computer 10 can be manually activated, automatically activated, and/or programmed for automatic activation, so as to perform searches of, and for, job openings and/or job, contracting, freelancing, and/or temporary position, opportunities, and provide an individual and/or group of individuals with notification of the availability of same.

FIG. 7 illustrates another preferred embodiment operation of the apparatus of FIG. 1, in flow diagram form. In the embodiment of FIG. 7, the apparatus and method of the present invention is utilized so as to provide notification of job openings and/or job opportunities to an individual and/or a

group of individuals. In this manner, the present invention can be utilized to inform an individual or individuals of job openings which may be of interest to him, her, or them, as the jobs or positions are posted and/or listed with the apparatus 100 by an employer and/or hiring entity.

In the embodiment of FIG. 7, an individual who desires to be notified of any of the herein described job openings, positions, assignments, contracts and/or projects, can list and/or provide their data and/or information, i.e., resume, educational qualifications, work experience, skills, references, work samples, and/or any other pertinent information, along with the type of job, work, project, and/or assignment, which they seek, with the apparatus 100 and, in particular, with the central processing computer 10, such as via the individual computer 20. Thereafter, the individual's data and/or information can be stored in the database 10H. Individuals posting or listing with the apparatus 100 may be subscribers, non-subscribers, and/or one-time and/or occasional or sporadic users of the apparatus 100.

The individual can also include information regarding the "searching event", the occurrence of which will trigger the central processing computer 10 to perform a job search for the individual and notify him or her of the results. The "searching event" can be pre-defined and/or be pre-specified as a date, a time, a time interval(s), a time period(s), events and/or occurrences.

The "searching event" can be requested by an individual, individuals, an employer, employers, a hiring entity or entities, and/or a recruiter, and may be defined as the occurrence of a new job posting by an employer and/or employers, upon the posting of new and/or revised data and/or information from an individual and/or group of individuals, upon a news release of certain business events, employment-related events, economic reports, industry-specific news, and/or any other event which may create an interest on behalf of an employer to fill a position, and/or for an individual to seek a position, and/or upon the occurrence of any recruitment initiating event, the happening of which will activate the central processing computer 10. The central processing computer 10 will thereafter proceed to perform a job search of employers and/or jobs in order to identify jobs or opportunities which may be of interest to, and/or which may be a possible match for, the individual.

The individual can also provide information such as a telephone number(s), a facsimile number(s), a pager number(s), an electronic mail (e-mail) address or e-mail addresses, and/or any other information which will facilitate a communication from the central processing computer 10 to the individual and/or the individual computer 20 associated with the individual. In this manner, the central processing computer 10 can communicate job openings and/or other opportunities which may be requested and/or which may be of interest to the individual. An employer can also provide similar, and/or analogous information to the central processing computer 10. Any and/or all of the data and/or information described herein as being provided by an individual, an employer, and/or a recruiter, can be stored in the database 10H.

In the embodiment of FIG. 7, the apparatus 100 can be programmed so as to trigger the central processing computer 10 to perform a job search for an individual and, in this manner, any programmed job search activity and/or recruitment activity will commence upon the occurrence of the "searching event".

The operation of the apparatus 100 commences at step 400. At step 401, the searching event will occur thereby activating the central processing computer 10. Thereafter, at step 402,



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the central processing computer **10** will query the database **10H** in order to perform a job search for the individual. The central processing computer **10** will thereafter, at step **403**, generate a list or report of available jobs and/or employers which may meet the individual's criteria, which may be of interest to the individual, and/or which may be a possible match for the individual.

At step **404**, the list or report of jobs will be transmitted to the individual and/or to the individual computer **20** associated with the individual. The list or report can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. At step **405**, the job search process between the individual and the employer will then proceed in the manner described in steps **210** through **233** of FIG. **5**, the description of which is hereby incorporated by reference herein. Thereafter, the operation of the apparatus **100** will cease at step **406**.

In another preferred embodiment, the present invention can be utilized to provide notification of individuals, independent contractors, freelancers, and/or temporary workers, who are available for job openings, projects, freelance assignments, and/or temporary assignments, to an employer and/or hiring entity and/or to a group of employers and/or hiring entities. In this embodiment, the central processing computer **10** can be manually activated, automatically activated, and/or programmed for automatic activation, so as to perform searches of, and for, individuals who may be candidates to fill the job openings and/or the requirements of the employers and/or hiring entities and provide an employer and/or group of employers with notification of the availability of these individuals.

FIG. **8** illustrates another preferred embodiment operation of the apparatus of FIG. **1**, in flow diagram form. In the embodiment of FIG. **8**, the apparatus and method of the present invention is utilized so as to provide notification of individuals, who are available for applying for, and/or for interviewing for, job, job opportunities, and/or employer needs, to an employer and/or a group of employers. In this manner, the present invention can be utilized to inform an employer or employers of individuals whom may be candidates for, may be recruiting prospects for, and/or who may be interested in being notified about, any of the employer's jobs, job opportunities, and/or needs, which are posted and/or listed with the apparatus **100** by the employer or a representative.

In the embodiment of FIG. **8**, an employer who desires to be notified of an individual or individuals, who may be qualified and/or interested in filling a job or position, can list and/or provide data and/or information, regarding the job openings, project openings, freelance assignments, and/or temporary assignments, including descriptions thereof, as well as the credentials required for filling and/or for being offered the respective job opening, project opening, freelance assignment, and/or temporary assignment, with the central processing computer **10**.

The employer can also list and/or provide data and/or information about itself, a firm resume, salary structure, benefits packages, firm qualifications, firm references, work samples, and/or any other pertinent information, with the central processing computer **10**, such as via the employer computer **30**. Thereafter, the employer's data and/or information can be stored in the database **10H**. Employers posting or listing jobs with the apparatus **100** may be subscribers, non-subscribers, and/or one-time and/or occasional or sporadic users of the apparatus **100**.

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The employer can also include information regarding the "searching event", the occurrence of which will trigger the central processing computer **10** to perform a recruitment search for the employer and notify the employer of the results. The "searching event" can be pre-defined and/or be pre-specified as a date, a time, a time interval(s), a time period(s), events and/or occurrences.

The "searching event" can be requested by an employer, employers, a hiring entity or entities, an individual, individuals, and/or a recruiter, and may be defined as the occurrence of a new job posting by an employer and/or employers, upon the posting of new and/or revised data and/or information from an individual and/or group of individuals, upon a news release of certain business events, employment-related events, economic reports, industry-specific news, and/or any other event which may create an interest on behalf of an employer to fill a position, and/or for an individual to seek a position, and/or upon the occurrence of any recruitment initiating event, the happening of which will activate the central processing computer **10**. The central processing computer **10** will thereafter proceed to perform a recruitment search of individuals in order to identify individuals whom may be interested in, and/or whom may be a possible match for, the employer.

The employer can also provide information such as a telephone number(s), a facsimile number(s), a pager number(s), an electronic mail (e-mail) address or e-mail addresses, and/or any other information which will facilitate a communication from the central processing computer **10** to the employer and/or the employer computer **30** associated with the employer. In this manner, the central processing computer **10** can communicate information regarding an individual and/or individuals whom may be of interest to the employer. An individual can also provide similar, and/or analogous information to the central processing computer **10**. Any and/or all of the data and/or information described herein as being provided by an employer, an individual, and/or a recruiter, can be stored in the database **10H**.

In the embodiment of FIG. **8**, the apparatus **100** can be programmed so as to trigger the central processing computer **10** to perform a recruitment search for an employer and, in this manner, any programmed recruitment search activity and/or recruitment activity will commence upon the occurrence of the "searching event".

The operation of the apparatus **100** commences at step **500**. At step **501**, the searching event will occur thereby activating the central processing computer **10**. Thereafter, at step **502**, the central processing computer **10** will query the database **10H** in order to perform a recruitment search for the employer. The central processing computer **10** will thereafter, at step **503**, generate a list or report of available individuals whom may meet the employer's criteria, which may be of interest to the employer, and/or which may be a possible match for the employer.

At step **504**, the list or report of individuals will be transmitted to the employer and/or to the employer computer **30** associated with the employer. The list or report can be transmitted electronically, such as via e-mail, electronic message transmission, telephone call, telephone message, facsimile transmission, pager message, and/or physical mail delivery. At step **505**, the recruitment search process between the employer and the individual will then proceed in the manner described in steps **310** through **333** of FIGS. **6A** to **6E**, the description of which is hereby incorporated by reference herein. Thereafter, the operation of the apparatus **100** will cease at step **506**.

In any and/or all of the embodiments described herein, any electronic messages, such as e-mails, electronic message

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transmissions, pager messages, telephone calls or messages, facsimile transmissions, etc., described herein, can be generated and/or transmitted to any of the respective parties, in real-time, thereby providing real-time message transmission and/or notification services.

In any and/or all of the embodiments described herein, any electronic messages, such as e-mails, electronic message transmissions, pager messages, telephone calls or messages, facsimile transmissions, etc., which are generated by the central processing computer **10**, by the individual computer **20**, and/or by the employer computer **30**, may contain appropriate hyperlinks, and/or forwarding information, to the party sending the electronic message and/or e-mail, to a third party, to other information, and/or to another information source. In this manner, for example, an e-mail message, transmitted from and/or on behalf of an employer to an individual, can contain a hyperlink(s) to the employer's web site or web page.

The hyperlink(s) to the employer's web site or web page can provide the individual with a link to, and/or access to, information about the employer, links to a video presentation about the employer, the employer's departments, and/or any other information, video and/or photographs of the employer's facilities, information regarding certain employees, job descriptions, benefits, financial and operational data and/or information, salary information, travel-related service entities or travel agents for arranging travel to the employer for interview and/or other purposes, links to information sources regarding the locale and/or area where the employer is located, etc., and/or any other information which may be of interest to a job applicant and/or prospective employee.

Similarly, any electronic message and/or e-mail transmitted from and/or on the behalf of the individual can contain hyperlinks to additional data and/or information which may be of interest to the employer. This information may include the individual's resume, supplemental resume, supplemental information, references, letters of recommendation, links to the colleges, universities, and/or schools attended, links to pre-authorized letters/forms requesting transcripts from any schools attended, links to the registrar's office of the individual's schools, links to past employers, links to work samples, links to video presentations and/or a video clip of the individual and/or a photograph of the individual, and/or links to any other information which may be useful and/or desirable in the recruiting process.

In another preferred embodiment, including in any and/or all of the embodiments described herein, the present invention can be utilized in order to allow employers and/or hiring entities to bid for the services of individuals, independent contractors, temporary workers, and/or freelancers. In a similar and/or analogous manner, an individual, independent contractor, temporary worker, and/or freelancer, may offer and/or auction his, her, or its, services to employers and/or hiring entities. Applicant hereby incorporates by reference herein the subject matter of U.S. Provisional Patent Application Ser. No. 60/120,883 which teaches an apparatus and method for effectuating commerce in a network environment. Applicant also hereby incorporates by reference herein the subject matter of U.S. patent application Ser. No. 09/498,143 which teaches an apparatus and method for effectuating commerce in a network environment.

In this manner, bidding and auctioning activities, related to job search activities, recruitment activities, and/or recruitment-related activities, can be utilized in order to fill and/or to obtain any job, employment position, project, and/or assignment, described herein.

When utilized to perform bidding and/or auctioning activities, the respective employer or individual can direct their

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respective bidding activity or activities and/or auctioning activity or activities to any single, group of, and/or combination of any, party, parties, individual, individuals, employer, employers, and/or hiring entity or hiring entities. The bidding and/or auctioning activities can be directed to a party, parties, individual, individuals, employer, employers, and/or hiring entity or hiring entities, which may be specified by the respective initiating party and/or which may be obtained via any of the various search routines, described herein.

Any and/or all respective bidding activities and/or auctioning activities can be effected via e-mail messages, electronic message transmissions, pager messages, facsimile messages, telephone calls or messages, physical mail delivery, and/or via any other method, means and/or mode of communication.

Applicant hereby incorporates by reference herein the subject matter of U.S. Pat. No. 5,862,223 which teaches a method and apparatus for a cryptographically-assisted commercial network system designed to facilitate and support expert-based commerce; the subject matter of U.S. Pat. No. 5,797,127 which teaches a method, apparatus, and program for pricing, selling, and exercising options to purchase airline tickets; and U.S. Pat. No. 5,794,207 which teaches a method and apparatus for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers.

Applicant also hereby incorporates by reference herein the subject matter of U.S. Pat. No. 5,884,272 which teaches a method and system for establishing and maintaining user-controlled anonymous communications; U.S. Pat. No. 5,884,270 which teaches a method and system for facilitating an employment search incorporating user-controlled anonymous communications; U.S. Pat. No. 5,832,497 which teaches an electronic automated information exchange and management system; U.S. Pat. No. 5,758,324 which teaches a resume storage and retrieval system; U.S. Pat. No. 5,696,702 which teaches a time and work tracker; U.S. Pat. No. 5,416,694 which teaches a computer-based data integration and management process for workforce planning and occupational readjustment; and U.S. Pat. No. 5,164,897 which teaches an automated method for selecting personnel matched job criteria.

In another preferred embodiment, including in any and/or all of the embodiments described herein, the present invention can be utilized for providing scheduling services for, and/or on behalf of, any of the individuals and/or employers described herein. In this embodiment, the present invention can maintain work schedules, and/or scheduling data and/or information, of and for individuals, independent contractors, temporary workers, and/or freelancers. The present invention can also maintain the work schedules, and/or scheduling data and/or information, of and for employers and/or hiring entities, including dates and/or times when the employer and/or hiring entity will, or may, be in need of help or assistance which can be provided by any of the individuals, independent contractors, temporary workers, and/or freelancers described herein.

The above-described schedules, and/or scheduling data and/or information, can be stored in the database **10H** of the central processing computer **10**. The schedules, and/or scheduling data and/or information, can also be stored and/or provided at any of the respective individual computers **20** and/or employer computers **30** described herein, and/or may be stored in any of the respective databases **20H** and/or **30H**.

An employer may utilize the schedules and/or scheduling data and/or information in order to reserve, engage, and/or request, the services of an individual. An employer can access the central processing computer **10** and access data and/or

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information concerning the work schedules of a certain individual and/or the work schedules of any number of individuals. The individual or individuals may be identified via a recruitment search as described herein and/or may be an individual and/or individuals already known by the employer and/or recommended to the employer. The employer may review the schedules and/or scheduling data and/or information until it identifies an individual and/or individuals who is or are acceptable and available for the dates and/or times, as well as places, needed by the employer.

Once the employer locates an individual and/or individuals, the employer can reserve, engage, and/or request, the services of the individual or individuals by transmitting an appropriate message from the employer computer **30** to the central processing computer **10**. The message can include the amount which the employer is willing to pay for the individual's services. Thereafter, the central processing computer **10** will transmit a message to the individual computer(s) **20** associated with the individual or individuals, and/or otherwise notify the individual or individual.

The individual or individuals may receive the message in real-time and/or otherwise. The individual or individuals may thereafter confirm the reservation, agree to the engagement, and/or reply to the request, respectively, via transmitting a message from the individual computer **20** to the central processing computer **10**. Thereafter, the central processing computer **10** will transmit a message to the employer computer **30** of the employer, thereby notifying the employer of the confirmed reservation, the confirmed agreement to the engagement, and/or the reply, respectively. Thereafter, the employer and the individual or individuals can be put into contact with one another and/or contact one another as they see fit.

In another embodiment, the central processing computer **10** can be programmed to confirm a reservation, agree to an engagement, and/or issue a reply, respectively, for, or on behalf, of an individual or individuals.

In another preferred embodiment, the central processing computer **10** can be programmed to provide an employer with conditions under which the individual and/or individuals will agree to a reservation, an engagement, and/or a request. One of these conditions can include payment in advance, a down payment, and/or an option payment, for the services of the individual or individuals. In this embodiment, the central processing computer **10** can administer and/or maintain a financial account for, or on behalf of any of, the individuals and/or employers described herein. The financial accounts may be bank accounts, electronic money accounts, credit accounts, debit account, and/or any other accounts for facilitating financial transactions. The central processing computer **10** can make a payment and/or transfer, on behalf of an employer, from the employer's account, to an individual's account or to accounts of individuals, thereby receiving payment for, or on behalf of, the individual or individuals, whichever the case may be.

As noted above, the employer may also secure and/or reserve the services of an individual, by purchasing an option from the individual, or person or entity representing the individual, for the respective individual's services, with the price of said option being determined by using conventional financial options pricing models and/or methods. Applicant hereby incorporates by reference herein the subject matter of *Options, Futures, and Other Derivatives*, Third Edition, by John C. Hull, Prentice Hall, 1997.

An individual may utilize the schedules and/or scheduling data and/or information in order to offer services to an employer. An individual can access the central processing computer **10** and access data and/or information concerning

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the work schedules or needs of an employer or any number of employers. The employer or employers may be identified via a job search as described herein and/or may be an employer and/or employers already known by the individual and/or recommended to the individual. The individual may review the schedules and/or scheduling data and/or information, until it identifies an employer and/or employers may be in need of the individual's services.

Once the individual locates an employer and/or employers, the individual can offer the individual's services to the employer or employers by transmitting an appropriate message from the individual computer **20** to the central processing computer **10**. The message or offer can include the individual's fee or the amount of charge for the services. Thereafter, the central processing computer **10** will transmit a message to the employer computer(s) **30** associated with the employer or employers, and/or otherwise notify the employer or employers.

The employer or employers may receive the message in real-time and/or otherwise. The employer or employers may thereafter accept or reject the offer via transmitting a message from the employer computer **30** to the central processing computer **10**. Thereafter, the central processing computer **10** will transmit a message to the individual computer **20** of the individual, thereby notifying the individual of the acceptance or rejection of its offer. Thereafter, the individual and the employer or employers can be put into contact with one another and/or contact one another as they see fit.

In another embodiment, the central processing computer **10** can be programmed to accept or reject, an offer to provide services, for, or on behalf, of an employer or employers.

In another preferred embodiment, the central processing computer **10** can be programmed to provide an individual with conditions under which the employer and/or employers will accept an offer. One of these conditions can be that a bond or guarantee must be posted for guaranteeing that the services will be performed as agreed upon. In this embodiment, the central processing computer **10** can administer and/or maintain a financial account for, or on behalf of any of, the individuals and/or employers described herein.

The financial accounts may be bank accounts, electronic money accounts, credit accounts, debit account, and/or any other accounts for facilitating financial transactions. The central processing computer **10** can make a payment and/or transfer, on behalf of an individual, from the individual's account, to an employer's account or to accounts of employers, thereby receiving payment for, or on behalf of, the employer or employers, whichever the case may be.

The individual may also secure a job, position, project, and/or assignment, by purchasing an option for same from the employer, or a representative of the employer, with the price of said option being determined by using conventional financial options pricing models and/or methods.

In another preferred embodiment, as well as in any and/or all of the embodiments described herein, the present invention can generate electronic catalogs and/or electronic coupons for use by employers, to publicize and/or to advertise jobs, employment positions, projects and/or assignments, which they wish to fill, and/or by individuals, employment agencies and/or their agents and/or representatives, to publicize and/or to advertise their services, and/or the services of those who they represent, as well as their respective availability and/or desire to perform and/or to fill and/or assume a job, employment position, project and/or assignment.

In this manner, an employer can generate and/or distribute electronic catalogs and/or electronic coupons, thereby publicizing and/or advertising any jobs, positions, projects and/or



assignments, and electronically distribute same to individuals and/or employment agencies who or which can be identified by querying the database 10H and/or by utilizing any other appropriate search method and/or criteria. Individuals, and/or their representative(s), and/or employment agencies, may generate and/or distribute electronic catalogs and/or electronic coupons in order to publicize and/or to advertise the individual's credentials, services, availability, and/or desire, to fill or assume a job, position, project, and/or assignment, to employers and/or hiring entities.

Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. Provisional Patent Application Ser. No. 60/137,689 which teaches an apparatus and method for providing an electronic catalog and/or an electronic coupon. Applicant also hereby incorporates by reference herein the subject matter and teachings of U.S. patent application Ser. No. 09/579,358 which teaches an apparatus and method for providing an electronic catalog and/or an electronic coupon.

Any and/or all of the electronic catalogs and/or electronic coupons described herein can be generated and/or transmitted as e-mail messages and/or electronic message transmissions and can include text information, resume information, video information and/or audio information.

Any and/or all of the electronic catalogs and/or electronic coupons described herein can be generated automatically by the central processing computer 10 and/or by any individual computers 20 and/or employer computers 30. Any of the central processing computer 10, the individual computer(s) 20 and/or the employer computer(s) 30 can be programmed to generate and/or to transmit any of the e-mails, electronic message transmissions, electronic catalogs and/or electronic coupons described herein.

In another preferred embodiment, the apparatus and method of the present invention can be utilized for performing and/or for facilitating the provision of recruitment services for schools, colleges, universities, and/or any organizations of any kind. In this embodiment, information in the form of text messages, video messages, audio messages, video clips, audio clips, infomercials, electronic catalogs, e-mail messages, etc., for publicizing and/or for promoting any of the herein-described schools, colleges, universities, and/or any organizations of any kind, can be stored at the central processing computer 10 and can be provided to any individuals who or which utilizes the apparatus and method of the present invention.

The apparatus and method of the present invention can also provide and/or facilitate the provision of any of the herein-described recruiting and/or recruitment services for attracting individuals to, and/or recruiting individuals for, any of the respective schools, colleges, universities, and/or any organizations of any kind.

Any and/or all of the e-mails, electronic message transmissions, electronic catalogs and/or electronic coupons, described herein, can be generated, transmitted and/or distributed, in response to a posting of a new job, a new employment position, a new project, and/or a new assignment, a listing and/or a posting of an individual(s), changes to the employment status, resume, skills, educational status, etc., of an individual(s), the occurrence of an event concerning the economy, the work needs of individuals, the needs of employers and/or hiring entities, and/or at specific times, at specified time intervals, and/or upon the occurrence of any event and/or occurrence which can be the basis for initiating a job search and/or a recruitment search.

In another preferred embodiment, as well as in any of the embodiments described herein, intelligent agents, software

agents, mobile agents, and/or related technologies, can be utilized in conjunction with the present invention. The respective intelligent agent(s), software agent(s), mobile agent(s), (hereinafter referred to collectively as "intelligent agent" or "intelligent agents") can be programmed and/or designed to act on behalf of a respective individual, employer and/or hiring entity, so as to perform any of the job searches, recruitment searches, and/or any of the other activities and/or functions described herein. The intelligent agent can act on behalf of the individual, employer and/or hiring entity, in various related interactions, negotiations, and/or other activities which are described as being performed herein and/or which may be incidental and/or related thereto.

An individual can utilize an intelligent agent(s) in order to find, identify, and/or locate a job, position, project and/or assignment. In a similar and/or an analogous manner, the employer and/or hiring entity can utilize an intelligent agent(s) in order to find and/or locate individuals to fill a job, position, project and/or assignment.

Applicant hereby incorporates by reference herein the subject matter of the *Agent Sourcebook, A Complete Guide to Desktop, Internet and Intranet Agents*, by Alper Caglayan and Colin Harrison, Wiley Computer Publishing, 1997. Applicant also incorporates by reference herein the subject matter of *Cool Intelligent Agents For The Net*, by Leslie L. Lesnick with Ralph E. Moore, IDG Books Worldwide, Inc. 1997.

In any and/or all of the embodiments described herein, the present invention can provide links and/or hyperlinks, online, on-screen, in e-mail messages and/or in electronic message transmissions, and/or otherwise, to any and/or all products and/or services related to job searching and/or recruiting. For example, the present invention can provide links to information regarding the location of an employer, links to a travel agent, links to transportation companies, rental car companies, hotels and other lodging establishments, as well as links to resume services, employment agencies, recruiters, temporary agencies, etc.

The present invention can also provide links to attorneys, banks, financial institutions, insurance companies, bonding companies, etc., and/or other individuals and/or entities, the services of whom or which may be needed and/or may be recommended when hiring an individual, an independent contractor, a temporary worker, and/or a freelancer, and/or when accepting and/or assuming responsibility, respectively, for a job, a position, a project and/or an assignment.

The present invention can also provide for the automatic notification of job openings, position openings, projects, and/or assignments, the availability of individuals, job applicants, independent contractors, and/or freelancers, and/or the availability of goods and/or service providers, to any of the respective parties described herein who may utilize the present invention.

In another preferred embodiment, as well as in any and/or all of the embodiments described herein, the present invention can provide an individual, employer and/or hiring entity, with data and/or information concerning attrition rates at individual employers and/or hiring entities, as well as salary information, including salary surveys for particular jobs, professions, etc., including salary, benefits, and/or other compensation, data and/or information for various experience levels, skill levels, skills and abilities, educational credentials, and/or other data and/or information which may be utilized by the individuals, employers and/or employer entities, and/or recruiters, described herein.

The above-described data and/or information can be provided by job or profession type, by market sector, by type of employer, and/or by location and/or geographic region. For

example, an individual may utilize the data and/or information provided by the present invention in order to determine what compensation the market will bear for his or her credentials and/or skill levels. An employer can also utilize this information in order to be competitive in its recruitment efforts and/or for otherwise attracting talented individuals.

The present invention can also provide an individual, an employer and/or hiring entity, and/or a recruiter, with data and/or information regarding the latest developments and/or current developments in the employment and/or recruiting fields, including, but not limited to, growth areas, demand information for certain jobs and/or professions, etc. For example, an individual can utilize this information in order to determine whether retraining is needed in order to attain a certain position and/or to ascertain the latest growth areas for certain jobs, careers and/or professions. An employer can utilize this information in order to determine the state of the job market and utilize the information as it sees fit.

The present invention can also be utilized in order to provide notification to any of the individuals, employers and/or hiring entities, described herein, that information is being, and/or has been, requested about them. The present invention can also provide the identity of the requesting party to the respective individual, employer and/or hiring entity. For example, an individual can be notified that company A has requested information about him or her. Similarly, an employer can be notified that an individual and/or a certain individual has requested information about it. The present invention may also maintain any and/or all information requests as confidential, if so requested.

In this embodiment, any and/or all of the data and/or information described herein, may be provided, requested, and/or accessed, by any of the respective parties. Any such notification embodiments can also provide for the blockage of any such notification by a requesting party. Also, any and/or all information utilized and/or provided in any such notification embodiments can also be provided as group information, generic information, and/or as information representative of a group, or a trend.

In any and/or all of the embodiments described herein, the present invention can also provide data and/or information, which may be transmitted and/or provided to any of the respective individuals, employers and/or hiring entities, to any number of, or groups of, third party or other individuals, employers, and/or hiring entities.

The present invention can be utilized by any individual, employer and/or hiring entity. The present invention can also be utilized by a recruiter, a recruiting entity, a headhunter, an agent, an employment agency, etc., in representing an individual, an independent contractor, and/or a freelancer. For example, a recruiter can utilize the present invention in order to assist others in finding jobs, positions, projects and/or assignments, and/or to assist employers and/or hiring entities to find individuals to fill jobs, positions, projects and/or assignments.

The present invention can also be utilized in order to prevent certain individuals and/or entities, employers and/or hiring entities, from accessing the data and/or information about any other individual, entity, employer, and/or hiring entity. For example, an individual can prevent access, to his or her data and/or information, by a present employer, a past employer, and/or any other individual, entity, employer and/or hiring entity identified by the individual, specifically, generically, and/or generally. In this manner, an individual can prevent a present employer and/or any other individual, entity, employer and/or hiring entity, from learning about his or her job search and/or availability. Similarly, an employer

and/or hiring entity can prevent certain individuals, entities, employers, and/or hiring entities, from learning of its recruitment efforts and/or human resource and/or employment needs.

Access restrictions to any data and/or information can be effected by utilizing any data and/or information security and/or access prevention methods, technologies and/or techniques, known by those skilled in the pertinent arts.

In any and/or all of the herein-described embodiments, the operation of the present invention may be triggered by any type of pre-specified event and/or occurrence which may include a new individual listing, a new employer and/or hiring entity listing, a departure of an individual from the employ of another, the completion of a job, project and/or assignment, changes in an economic factor(s), changes in a market factor(s), an increase in an unemployment rate, the unemployment of an individual, a detected need for jobs of a certain skill, and/or any other event, situation, and/or occurrence which may be pertinent and/or related to job searching efforts and/or recruitment efforts.

The apparatus of the present invention, in any and/or all of the embodiments described herein, can also be programmed to be self-activating and/or activated automatically.

The apparatus of the present invention can also be programmed in order to automatically generate and/or transmit any of the e-mails, electronic message transmissions, electronic notification transmissions, and/or any of the communications, which are described herein, between any of the parties which utilize the present invention.

In another preferred embodiment, as well as in any and/or all of the embodiments described herein, the present invention can be utilized in order to monitor, record, and/or keep track of, any offers and/or rejections of offers, involving any jobs, employment positions, projects and/or assignments, which occur in conjunction with and/or via use of the present invention. The information which is obtained can thereafter be provided to individuals, employers, and/or recruiters, for utilization in any appropriate and/or suitable manner.

In any and/or all of the embodiments described herein, any individual and/or employer data and/or information can be stored with various and/or varying levels of specificity and/or confidentiality. In this manner, any of the data and/or information described herein, can be filtered, can be released at varying times, depending upon the interest and/or comfort levels of the parties, and/or can be maintained as confidential. In this manner, the respective parties can maintain confidentiality and/or can exercise control over the nature and amount of data and/or information which can be released about themselves.

The apparatus and/or method of the present invention can be utilized as an electronic and/or network-based job searching and/or recruitment searching apparatus and/or clearinghouse. Applicant hereby incorporates by reference herein the subject matter of U.S. Provisional Patent Application Ser. No. 60/132,301 which teaches an apparatus and method for monitoring an advertisement and/or an advertisement location.

In any and/or all of the embodiments described herein, any interactions, negotiations, and/or deals reached, between any of the parties, can be monitored and/or be recorded by the central processing computer 10 and be stored in the database 10H. In this regard, any interviews, interactions, communications, actions and responses thereto, offers, counter-offers, acceptances and/or rejections, can be recorded and/or be stored and utilized in any manner consistent with the operation and/or use of the present invention as described herein.

The present invention, in any and/or all of the herein-described embodiments, can utilize electronic commerce



technologies and security methods, techniques and technologies, as described and as set forth in *Electronic Commerce Technical, Business, and Legal Issues*, Nabil R. Adam, et al. Prentice Hall, 1999 and *Web Security & Commerce*, Simson Garfinkel with Gene Spafford, O'Reilly 1997, the subject matter of which are hereby incorporated by reference herein.

The communications networks and/or systems on, or over, which the present invention may be utilized, can include any one or combination of telecommunication networks or systems, satellite communication networks or systems, radio communication networks or systems, digital communication networks or systems, digital satellite communication networks or systems, personal communications services networks or systems, cable television networks or systems, broadband communication networks or systems, low earth orbiting satellite (LEOs) networks or systems, as well as in, or on any internets and/or intranets, the Internet, the World Wide Web, and any other suitable communication network or system.

Any and/or all of the data and/or information described herein can be compiled and processed using statistical calculations in order to update the stored data and/or information with such data and/or information being made available to the respective individuals, employers and/or hiring entities, who or which utilize the present invention.

Any and/or all of the data and/or information described herein, which is stored in the database 10H, or in the collection of databases, can be linked via relational database techniques and/or via any appropriate database management techniques. The data and/or information, in the preferred embodiments, can be updated via inputs from the respective individuals, employers and/or hiring entities, and/or administrator or operator of the apparatus 100 and/or the central processing computer 10. The above-described updates can also be provided from other information sources via the communication network.

The data and/or information stored in the database 10H, or in the collection of databases, and/or any other databases utilized in conjunction with the present invention, can be updated by each of the respective individuals, employers and/or hiring entities, and/or administrator or operator of the apparatus 100 or the central processing computer 10, in real-time, and/or via dynamically linked database management techniques.

The data and/or information which is stored in the database 10H and/or which may be otherwise utilized with, and/or in conjunction with, the apparatus and method of the present invention, can be linked via any suitable data linking techniques such as, for example, dynamically linked lists (DLLs), linked lists, and object links embedded (OLE's). Any suitable database management technique(s) may also be utilized in conjunction with the present invention.

The present invention can be utilized in conjunction with job searches, recruitment searches, and/or related activities, for any kind of job, service, vocation, profession, employment position, independent contractor project, project, freelance assignment, assignment, and/or any other kind or variety of work or services, permanent and/or temporary, and/or regardless of duration and/or type.

The present invention provides an apparatus and a method for providing automated job searching services, recruitment services, and/or employment agent and/or agency services, in a network environment, while reducing the time, expense and effort needed in performing these services.

The present invention can also be utilized in conjunction with electronic catalogs and/or electronic coupons in order to provide electronic catalogs and/or electronic coupons con-

taining information regarding any of the job search applicants, prospective employees, independent contractors, employers, assignments, available jobs or positions, contract positions, contracting assignments, employment agency services, and/or other individuals and/or entities described herein, so as to advertise the availability or existence of the respective individuals and/or entities. Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. Provisional Patent Application Ser. No. 60/137,689 entitled "APPARATUS AND METHOD FOR PROVIDING AN ELECTRONIC CATALOG AND/OR AN ELECTRONIC COUPON". Applicant hereby incorporates by reference herein the subject matter and teachings of U.S. patent application Ser. No. 09/579,358 entitled "APPARATUS AND METHOD FOR PROVIDING AN ELECTRONIC CATALOG AND/OR AN ELECTRONIC COUPON".

The present invention can be utilized in conjunction with any job, assignment, position, employment position, service, contracting assignment, and/or any independent contracting position and/or freelance position, which can be the subject of commerce.

The present invention can be utilized, in any and/or all of the embodiments described herein, in conjunction with the buying, selling, bartering and/or trading, of services between the various parties, individuals, employers, and/or hiring entities described herein.

The present invention can be utilized in order to reduce recruiting efforts, costs and fees, such as headhunter fees, agency fees, broker fees, and/or representative fees, and can eliminate the inefficiencies which may result from dealing with intermediaries in job search efforts and/or recruitment efforts.

The present invention also provides an apparatus and a method for providing enhanced confidentiality during job search activities, assignment search activities, recruitment activities, and/or related activities, interactions, negotiations and/or other dealings, between the respective parties involved.

While the present invention has been described and illustrated in various preferred and alternate embodiments, such descriptions are merely illustrative of the present invention and are not to be construed to be limitations thereof. In this regard, the present invention encompasses all modifications, variations and/or alternate embodiments, with the scope of the present invention being limited only by the claims which follow.

What is claimed is:

1. An apparatus, comprising:

a memory device, wherein the memory device stores information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and further wherein the memory device stores information regarding a job search request or inquiry;

a processing device, wherein the processing device processes the information regarding a job search request or inquiry upon a detection of an occurrence of a searching event, wherein the searching event is an occurrence of at least one of a job posting by at least one employer or at least one hiring entity, a posting of new or revised data or information from at least one individual or a group of individuals, a news release of a business event, an employment-related event, an economic report, industry-specific news, an event which creates an interest by at least one employer or at least one hiring entity to fill a position, and an event which creates an interest by at least one individual to seek a position, wherein the processing device automatically detects the occurrence of

the searching event, wherein the processing device utilizes the information regarding at least one of a job opening, a position, an assignment, a contract, and a project, stored in the memory device in processing the information regarding a job search request or inquiry, and further wherein the processing device generates a message containing the information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is responsive to the job search request or inquiry; and

a transmitter, wherein the transmitter transmits the message to a communication device associated with an individual.

2. The apparatus of claim 1, wherein the message is transmitted to the communication device via, on, or over, a wireless communication network, and further wherein the communication device is at least one of a wireless device, a personal digital assistant, a video telephone, a videophone, a beeper, a pager, and a watch.

3. The apparatus of claim 1, wherein the communication device is a television or an interactive television.

4. The apparatus of claim 1, wherein the information regarding at least one of a job opening, a position, an assignment, a contract, and a project, is transmitted to a receiver from a second communication device, wherein the second communication device is associated with an employer or hiring entity, and further wherein the information regarding at least one of a job opening, a position, an assignment, a contract, and a project, is automatically received by the receiver and automatically stored in the memory device.

5. The apparatus of claim 1, wherein the information regarding a job search request or inquiry is transmitted to a receiver from at least one of the communication device and a second communication device associated with the individual, and further wherein the information regarding a job search request or inquiry is automatically received by the receiver and automatically stored in the memory device.

6. The apparatus of claim 1, wherein the information regarding a job search request or inquiry contains at least one of job search information, information regarding the individual, and information regarding at least one of a resume of the individual, an educational qualification of the individual, a work experience of the individual, a reference for the individual, a work sample of the individual, a type of at least one of a job, a work, a project, and an assignment, sought by the individual, and information for contacting the individual.

7. The apparatus of claim 1, wherein the message contains a hyperlink or a link to at least one of a web site of an employer, a web page of an employer, information about an employer, a video presentation about an employer, a department of an employer, a video or photograph of a facility of an employer, information regarding a certain employee or employees, a job description, at least one of a benefit, a financial, and an operational, data or information, salary information, a travel-related service entity, a travel agent, and an information source regarding a locale or area where an employer is located.

8. The apparatus of claim 1, wherein the apparatus stores at least one of work schedule information and scheduling information for an employer or hiring entity associated with the at least one of a job opening, a position, an assignment, a contract, and a project, and further wherein the apparatus receives a request to obtain the at least one of work schedule information and scheduling information for the employer or hiring entity, wherein the request to obtain the at least one of work schedule information and scheduling information for the employer or hiring entity is transmitted from the communi-

cation device or from a second communication device, wherein the second communication device is associated with the individual or is associated with a second individual, wherein the apparatus processes the request to obtain the at least one of work schedule information and scheduling information for the employer or hiring entity and generates a second message containing the at least one of work schedule information and scheduling information for the employer or hiring entity, and further wherein the apparatus transmits the second message to the communication device or to the second communication device, and further wherein the apparatus receives a third message transmitted from the communication device or from the second communication device, wherein the third message contains information regarding an offer by the individual or by the second individual to provide or perform a service or services for the employer or hiring entity.

9. The apparatus of claim 1, wherein the message includes at least one of an electronic catalog, an electronic coupon, video information, and audio information, and further wherein the at least one of an electronic catalog, an electronic coupon, video information, and audio information, includes information regarding at least one of a job, an employment position, a project, and an assignment.

10. The apparatus of claim 1, wherein the apparatus receives a second job search request or inquiry, wherein the second job search request or inquiry is transmitted from the communication device or from a second communication device, wherein the second communication device is associated with the individual or is associated with a second individual, and further wherein the apparatus processes the second job search request or inquiry and generates a second message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and further wherein the second message is responsive to the second job search request or inquiry, and further wherein the apparatus transmits the second message to the communication device or to the second communication device.

11. The apparatus of claim 1, wherein the apparatus processes information regarding a bid by an employer or hiring entity to obtain or receive a service or services of the individual or the apparatus processes information regarding an auction by the individual to perform or provide a service or services for an employer or hiring entity.

12. The apparatus of claim 1, wherein the apparatus processes information regarding a purchase by the individual of an option to perform or provide a service or services for an employer or hiring entity or the apparatus processes information regarding a purchase by an employer or hiring entity of an option to obtain or receive a service or services of the individual.

13. The apparatus of claim 1, wherein the searching event is an occurrence of a job posting by at least one employer or at least one hiring entity.

14. The apparatus of claim 1, wherein the searching event is an occurrence of a posting of new or revised data or information from at least one individual or a group of individuals.

15. The apparatus of claim 1, wherein the apparatus generates a second message at an occurrence of a second searching event, wherein the second searching event is a pre-defined or pre-specified at least one of date, time, time interval, and time period, wherein the second message contains information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, or contains information regarding a second at least one of a job opening, a position, an assignment, a contract, and a project, wherein the second message is responsive to the job search request or inquiry or

is responsive to a second job search request or inquiry, and further wherein the apparatus transmits the second message to the communication device or to a second communication device, wherein the second communication device is associated with the individual or is associated with a second individual.

16. The apparatus of claim 1, wherein the apparatus stores at least one of information regarding whether the individual is interested in or not interested in the at least one of a job opening, a position, an assignment, a contract, and a project, information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the individual and an employer or hiring entity, and information regarding at least one of a deal reached between an employer or hiring entity and the individual, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of an employer or hiring entity and the individual.

17. An apparatus, comprising:

a memory device, wherein the memory device stores information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and further wherein the memory device stores information regarding a job search request or inquiry;

a processing device, wherein the processing device processes the information regarding a job search request or inquiry upon a detection of an occurrence of a searching event, wherein the searching event is an occurrence of at least one of a job posting by at least one employer or at least one hiring entity, a posting of new or revised data or information from at least one individual or a group of individuals, a news release of a business event, an employment-related event, an economic report, industry-specific news, an event which creates an interest by at least one employer or at least one hiring entity to fill a position, and an event which creates an interest by at least one individual to seek a position, wherein the processing device automatically detects the occurrence of the searching event, wherein the processing device utilizes information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, stored in the memory device in processing the information regarding a job search request or inquiry, and further wherein the processing device generates a message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is responsive to the job search request or inquiry; and

a transmitter, wherein the transmitter transmits the message to a communication device associated with an individual, wherein the message is transmitted to the communication device via, on, or over, at least one of the Internet and the World Wide Web,

wherein the apparatus receives a response to the message, wherein the response is transmitted from the communication device or from a second communication device associated with the individual, wherein the apparatus processes information contained in the response, and further wherein the apparatus stores at least one of information regarding whether the individual is interested in or not interested in the at least one of a job opening, a position, an assignment, a contract, and a project, information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the individual and an employer or hiring entity, and information regarding at least one of a deal reached between an employer or hiring entity and the

individual, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of an employer or hiring entity and the individual.

18. An apparatus, comprising:

a memory device, wherein the memory device stores information regarding an individual available for at least one of applying for and interviewing for at least one of a job, a job opportunity, and a hiring need, and further wherein the memory device stores information regarding a recruitment search request or inquiry;

a processing device, wherein the processing device processes the information regarding a recruitment search request or inquiry upon a detection of an occurrence of a searching event, wherein the searching event is an occurrence of at least one of a job posting by at least one employer or at least one hiring entity, a posting of new or revised data or information from at least one individual or a group of individuals, a news release of a business event, an employment-related event, an economic report, industry-specific news, an event which creates an interest by at least one employer or at least one hiring entity to fill a position, and an event which creates an interest by at least one individual to seek a position, wherein the processing device automatically detects the occurrence of the searching event, wherein the processing device utilizes the information regarding an individual stored in the memory device in processing the information regarding a recruitment search request or inquiry, and further wherein the processing device generates a message containing information regarding the individual, wherein the message is responsive to the recruitment search request or inquiry; and

a transmitter, wherein the transmitter transmits the message to a communication device associated with an employer or hiring entity.

19. The apparatus of claim 18, wherein the information regarding an individual is transmitted to a receiver from a second communication device, wherein the second communication device is associated with the individual, and further wherein the information regarding the individual is automatically received by the receiver and automatically stored in the memory device.

20. The apparatus of claim 18, wherein the information regarding a recruitment search request or inquiry contains at least one of information regarding at least one of a job opening, a project opening, a freelance assignment, and a temporary assignment, information regarding a credential required for the at least one of a job opening, a project opening, a freelance assignment, and a temporary assignment, and information about the employer or hiring entity, a firm resume, a salary structure, a benefits package, a firm qualification, a firm reference, or a work sample.

21. The apparatus of claim 18, wherein the message contains a hyperlink or a link to at least one of a reference for the individual, a letter of recommendation for the individual, a link to at least one of a college, a university, and a school, attended by the individual, a pre-authorized request form for a transcript from a school attended by the individual, a registrar's office of a school, a past employer, a work sample, or a video presentation or a video clip, of the individual, and a photograph of the individual.

22. The apparatus of claim 18, wherein the apparatus stores at least one of work schedule information and scheduling information for the individual, and further wherein the apparatus receives a request to obtain the at least one of work schedule information and scheduling information for the



individual, wherein the request to obtain the at least one of work schedule information and scheduling information for the individual is transmitted from the communication device or from a second communication device, wherein the second communication device is associated with the employer or hiring entity or is associated with a second employer or second hiring entity, wherein the apparatus processes the request to obtain the at least one of work schedule information and scheduling information for the individual and generates a second message containing the at least one of work schedule information and scheduling information for the individual, and further wherein the apparatus transmits the second message to the communication device or to the second communication device, and further wherein the apparatus receives a third message transmitted from the communication device or from the second communication device, wherein the third message contains information regarding a request to receive a service or services of the individual.

23. The apparatus of claim 18, wherein the message includes at least one of an electronic catalog, an electronic coupon, video information, and audio information, and further wherein the at least one of an electronic catalog, an electronic coupon, video information, and audio information, includes information regarding the individual.

24. The apparatus of claim 18, wherein the apparatus receives a second recruitment search request or inquiry, wherein the second recruitment search request or inquiry is transmitted from the communication device or from a second communication device, wherein the second communication device is associated with the employer or hiring entity or is associated with a second employer or second hiring entity, and further wherein the apparatus processes the second recruitment search request or inquiry and generates a second message containing information regarding the individual or a second individual, and further wherein the second message is responsive to the second recruitment search request or inquiry, and further wherein the apparatus transmits the second message to the communication device or to the second communication device.

25. The apparatus of claim 18, wherein the apparatus processes information regarding a bid by the employer or hiring entity to obtain or receive a service or services of the individual or the apparatus processes information regarding an auction by the individual to perform or provide a service or services for the employer or hiring entity.

26. The apparatus of claim 18, wherein the apparatus processes information regarding a purchase by the individual of an option to perform or provide a service or services for the employer or hiring entity or the apparatus processes information regarding a purchase by the employer or hiring entity of an option to obtain or receive a service or services of the individual.

27. The apparatus of claim 18, wherein the searching event is an occurrence of a job posting by at least one employer or at least one hiring entity.

28. The apparatus of claim 18, wherein the searching event is an occurrence of a posting of new or revised data or information from at least one individual or a group of individuals.

29. The apparatus of claim 18, wherein the communication device is a television or an interactive television.

30. The apparatus of claim 18, wherein the apparatus generates a second message at an occurrence of a second searching event, wherein the second searching event is a pre-defined or pre-specified at least one of date, time, time interval, and time period, wherein the second message contains information regarding the individual or a second individual, wherein the second message is responsive to the recruitment search request or inquiry or is responsive to a second recruitment search request or inquiry, and further wherein the apparatus

transmits the second message to the communication device or to a second communication device, wherein the second communication device is associated with the employer or hiring entity or is associated with a second employer or second hiring entity.

31. The apparatus of claim 18, wherein the apparatus stores at least one of information regarding whether the employer or hiring entity is interested in the individual, information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the employer or hiring entity and the individual, and information regarding at least one of a deal reached between the individual and the employer or hiring entity, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of the employer or hiring entity and the individual.

32. An apparatus, comprising:

a memory device, wherein the memory device stores information regarding an individual available for at least one of applying for and interviewing for at least one of a job, a job opportunity, and a hiring need, and further wherein the memory device stores information regarding a recruitment search request or inquiry;

a processing device, wherein the processing device processes the information regarding a recruitment search request or inquiry upon a detection of an occurrence of a searching event, wherein the searching event is an occurrence of at least one of a job posting by at least one employer or at least one hiring entity, a posting of new or revised data or information from at least one individual or a group of individuals, a news release of a business event, an employment-related event, an economic report, industry-specific news, an event which creates an interest by at least one employer or at least one hiring entity to fill a position, and an event which creates an interest by at least one individual to seek a position, wherein the processing device automatically detects the occurrence of the searching event, wherein the processing device utilizes the information regarding an individual stored in the memory device in processing the information regarding a recruitment search request or inquiry, and further wherein the processing device generates a message containing information regarding the individual, wherein the message is responsive to the recruitment search request or inquiry; and

a transmitter, wherein the transmitter transmits the message to a communication device associated with an employer or hiring entity, wherein the message is transmitted to the communication device via, on, or over, at least one of the Internet and the World Wide Web,

wherein the apparatus receives a response to the message, wherein the response is transmitted from the communication device or from a second communication device associated with the employer or hiring entity, wherein the apparatus processes information contained in the response, and further wherein the apparatus stores at least one of information regarding whether the employer or hiring entity is interested in the individual, information regarding at least one of an interview process, an employment screening process, and a recruitment process, involving the employer or hiring entity and the individual, and information regarding at least one of a deal reached between the individual and the employer or hiring entity, an offer, a counteroffer, a rejected offer, a rejected counteroffer, at least one of a time and a date of a consideration, and a note made by at least one of the employer or hiring entity and the individual.

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**GREATGIGZ SOLUTIONS, LLC,**

Plaintiff

v.

**FREELANCER LIMITED,**

Defendant

**Case No. 6:20-cv-00738**

**JURY TRIAL DEMANDED**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

GreatGigz Solutions, LLC (“Plaintiff”) hereby files this First Amended Complaint for Patent Infringement against Freelancer Limited (“Freelancer” or “Defendant”), and alleges, on information and belief, as follows:

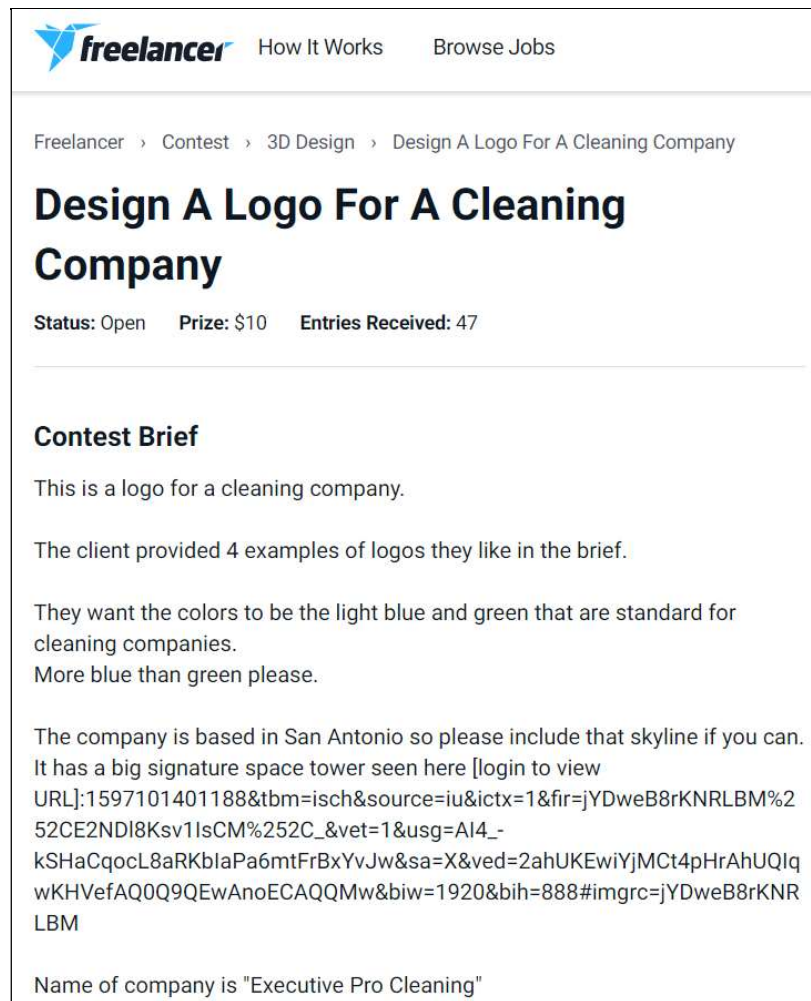
**THE PARTIES**

1. GreatGigz Solutions, LLC is a limited liability company organized and existing under the laws of the State of Florida with its principal place of business at 600 S. Dixie Hwy, Suite 605, West Palm Beach, Florida 33401.
2. On information and belief, Freelancer Limited is an entity formed and operating under the laws of Australia, with a principal place of business located at Level 37, Grosvenor Place, 225 George Street, Sydney, NSW 2000, Australia ACN 141 959 042. On information and belief, Freelancer is publicly traded on the Australian Security Exchange under the ticker ASX:FLN. On information and belief, Freelancer maintains corporate offices at locations worldwide, including Vancouver, Canada, but has no primary place of business in the United States. On information and belief,

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Freelancer is not registered to conduct business in the State of Texas, and has no registered agent for service in the State of Texas.

3. On information and belief, Freelancer operates the web domain at [www.freelancer.com](http://www.freelancer.com), which is readily available to residents of this District, and is used extensively by residents of the State of Texas and of this District. By way of example, a current contest running on [freelancer.com](http://freelancer.com) is for a cleaning company based in San Antonio, Texas:



4. On information and belief, Freelancer sells and offers to sell products and services throughout the State of Texas, including in this judicial District, and introduces services via its infringing systems into the stream of commerce knowing and intending that they would be extensively used in the

State of Texas and in this judicial District. On information and belief, Freelancer specifically targets customers in the State of Texas and in this judicial District.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1338.
6. This Court has personal jurisdiction over Defendant. Defendant has continuous and systematic business contacts with the State of Texas. Defendant directly conducts business extensively throughout the State of Texas, by distributing, making, using, offering for sale, selling, and advertising (including the provision of interactive web pages and mobile applications) its services in the State of Texas and in this District. Defendant has purposefully and voluntarily made its infringing systems available to residents of this District and into the stream of commerce with the intention and expectation that they will be purchased and used by consumers in this District. On information and belief, Freelancer currently connects over 46 Million employers and freelancers globally from over 247 countries, regions, and territories. On information and belief, in 2019 Freelancer reported net revenues of \$58 Million on a gross volume of \$788 Million.
7. Venue is proper in the Western District of Texas as to Defendant pursuant to at least 28 U.S.C. §§ 1391(c)(3) and 1400(b).

### **PATENTS-IN-SUIT**

8. GreatGigz Solutions, LLC is the owner, by assignment, of U.S. Patent Nos. 6,662,194 (“the ’194 Patent”); 7,490,086 (“the ’086 Patent”); 9,760,864 (“the ’864 Patent”); and 10,096,000 (“the ’000 Patent”) (hereinafter collectively referred to as “the GGS Patents”).
9. The GGS Patents are valid, enforceable, and were duly issued in full compliance with Title 35 of the United States Code.



10. The inventions described and claimed in the GGS Patents were invented by Raymond Anthony Joao.
11. The GGS Patents each include numerous claims defining distinct inventions.
12. The priority date of each of the GGS Patents is at least as early as July 31, 1999. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.
13. For example, and as evidence of the stated non-routine aspects of the inventions, during prosecution of the '864 Patent, the patent examiner considered whether the claims of the '864 Patent were eligible under 35 USC §101 in view of the United States Supreme Court's decision in *Alice*. The patent examiner affirmatively and expressly found that the claims are in fact patent eligible under 35 USC §101 because all pending claims are directed to patent-eligible subject matter, because none of the pending claims are directed to an abstract idea, and because there would be no preemption of the abstract idea or the field of the abstract idea.
14. GreatGigz Solutions, LLC alleges infringement on the part of Defendant of the '194 Patent and the '086 Patent (collectively as the "Asserted Patents").
15. The '194 Patent relates generally to an apparatus and method for providing recruitment information, including a memory device for Storing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and information regarding a job Search request, a processing device for processing information regarding the job Search request upon a detection of an occurrence of a Searching event, wherein the processing device utilizes information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, Stored in the memory device, and further wherein the processing device generates a message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is responsive to the job Search request, and a

transmitter for transmitting the message to a communication device associated with an individual in real-time. *See* Abstract, '194 Patent.

16. The '086 Patent relates generally to an apparatus, including a memory device which stores information regarding a job opening, position, assignment, contract, or project, and information regarding a job search request or inquiry, a processing device which processing the information regarding a job search request or inquiry upon an automatic detection of an occurrence of a searching event which is an occurrence of a job posting, a posting of new or revised data or information, a news release of a business event, an employment-related event, an economic report, industry-specific news, an event which creates an to fill a position, or an event which creates an interest to seek a position, and generates a message, containing the information regarding a job opening, position, assignment, contract, or project, responsive to the job search request or inquiry, and a transmitter which transmits the message to a communication device associated with an individual. *See* Abstract, '086 Patent.
17. As noted, the claims of the Asserted Patents claim priority to at least July 31, 1999.
18. The claims of the Asserted Patents are not drawn to laws of nature, natural phenomena, or abstract ideas. Although the systems and methods claimed in the Asserted Patents are ubiquitous now (and, as a result, are widely infringed), the specific combinations of elements, as recited in the claims, was not conventional or routine at the time of the invention.
19. Further, the claims of the Asserted Patents contain inventive concepts which transform the underlying non-abstract aspects of the claims into patent-eligible subject matter.
20. Consequently, the claims of the Asserted Patents recite systems and methods resulting in improved functionality of the claimed systems and represent technological improvements to the operation of computers.

21. The claims of the Asserted Patents overcome deficiencies existing in the art as of the date of invention, and comprise non-conventional approaches that transform the inventions as claimed into substantially more than mere abstract ideas. For example, as of the date of invention, “[j]ob searching activities and recruitment activities typically require efforts in introducing parties to one another, pre-screening the parties prior to, and/or subsequent to, an introduction, acting as an information gathering entity for a party, exchanging information in order to determine if a relationship is appropriate and/or desirable, negotiating a deal, and/or consummating a deal between the respective parties. While individuals and/or employers and/or hiring entities can act on their own behalf during most of the process, one of the parties may typically enlist the efforts of an employment agency or agencies, a recruiter(s), a so-called ‘headhunter(s)’, an employment and/or career consultant(s), a temporary employment agency or agencies, a personal agent(s), a personal manager(s), and/or another intermediary or intermediaries, sometimes at great expense.” ’194 Patent at 1:59-2:6. The inventions as claimed overcome these deficiencies in the state of the art, and provide substantial cost savings to all parties. As explained, as of the date of invention, “[t]he enlistment of employment agencies, recruiters, so-called ‘headhunters’, employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, can be costly and can lead to job search efforts and/or recruitment efforts which may be limited in breadth and/or scope by the personal and/or individual contacts, limitations and/or constraints associated with the employment agency, recruiter, so-called ‘headhunter’, employment and/or career consultant, temporary employment agency, personal agent, personal manager, and/or other intermediary.” *Id.* at 2:7-17. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for a costly middle-man in the process is overcome. *Id.* at 2:18-24; 6:45-55.

22. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[j]ob searching efforts and recruitment efforts may be limited by and/or be constrained by limited personal contacts, geographical constraints, monetary constraints, and/or time constraints. Oftentimes, individuals, employers and/or hiring entities, do not have the resources to conduct their own respective job searching efforts or recruitment efforts. The enlistment of employment agencies, recruiters, so-called ‘headhunters’, employment and/or career consultants, temporary employment agencies, personal agents, personal managers, and/or other intermediaries, may not be sufficient to overcome these limitations and/or constraints, particularly, if the respective employment agency or agencies, recruiter(s), so-called ‘headhunter(s)’, employment and/or career consultant(s), temporary employment agency or agencies, personal agent(s), personal manager(s) and/or other intermediary or intermediaries, are working with similar limitations and/or constraints.” *Id.* at 2:26-42. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for extensive personal contacts and geographical proximity are overcome.
23. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[t]he job search process and/or the recruitment process can typically be rendered more difficult in instances when additional information may be requested by one or by both of the parties concerning a counterpart. This typically results in time delays and/or additional expense to the party having to comply with such a request.” *Id.* at 2:43-48. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for time-consuming delays is overcome.

24. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[j]ob searching efforts and/or recruitment efforts may further be rendered more difficult when the parties are not properly pre-screened, thereby resulting in wasted time and effort, and/or when the parties are not properly informed as to the needs and/or demands of a counterpart. The needs and/or demands can include job description, job needs, project description, assignment description, salary, compensation, and/or other related information. The failure to pre-screen the parties and/or to conduct a dialog and/or initiate interviews and/or discussions when the parties may be so far apart regarding their respective needs, requests and/or expectations, for example, those involving job duties and/or salary, can result in wasted time and effort.” *Id.* at 2:49-61. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the associated time and effort are reduced, resulting in more efficient processes and cost savings for all involved.
25. The inventions as claimed further overcome the deficiencies existing in the art as of the date of invention by removing barriers confronting many at the time. As explained, as of the date of invention, “[c]onfidentiality is typically another concern in job searching activities and/or in recruitment activities. Individuals, employees, and/or hiring entities may have an interest in, and/or a desire for, maintaining confidentiality during at least some initial stages of any job search and/or recruitment effort. In some instances, once an initial interest is expressed, any confidentiality which may have existed may be lost for the remainder of the process. Sometimes, it may be desirable for an individual, an employer and/or hiring entity, to retain at least some level of confidentiality and/or anonymity further into the job search and/or recruitment process. In this manner, at least some confidentiality and/or anonymity can be preserved, especially if a deal

between the parties is not ultimately reached.” *Id.* at 2:62-3:8. As such, the inventions as claimed provide non-conventional solutions to the conventional problems of the day because the need for confidentiality in the process is enhanced. *See id.* at 6:59-65.

26. As noted above, during prosecution of the '864 Patent, the patent examiner considered whether the claims of the '864 Patent were eligible under 35 USC §101 in view of the United States Supreme Court's decision in *Alice*. The patent examiner expressly found that the claims are in fact patent eligible under 35 USC §101 because all pending claims are directed to patent-eligible subject matter, none of the pending claims are directed to an abstract idea, and there would be no preemption of the abstract idea or the field of the abstract idea. For these same reasons, all of the claims of the Asserted Patents are patent-eligible.
27. The '194 Patent was examined by Primary United States Patent Examiner Franz Colby. During the examination of the '194 Patent, the United States Patent Examiner searched for prior art in the following US Classifications: 705/1, 10, 11, 705/26, 707/104.1, 10, 3, and 103R.
28. After conducting a search for prior art during the examination of the '194 Patent, the United States Patent Examiner identified and cited the following as the most relevant prior art references found during the search: (i) 5,164,897, 11/1992, Clark et al.; (ii) 5,832,497, 11/1998, Taylor; (iii) 5,884.270, 3/1999, Walker et al.; (iv) 5,884.272, 3/1999, Walker et al.; (v) 5,978,768, 11/1999, McGovern et al.; (vi) 6,324,538, 11/2001, Wesinger, Jr. et al.; (vii) 6,332,125, 12/2001, Callen et al.; (viii) 6,363,376, 3/2002, Wiens et al.; (ix) 6,370,510, 4/2002, McGovern et al.; (x) 6,381,592, 4/2002, Reuning; and (xi) 6,385,620, 5/2002, Kurzius et al.
29. After giving full proper credit to the prior art and having conducted a thorough search for all relevant art and having fully considered the most relevant art known at the time, the United States Patent Examiner allowed all of the claims of the '194 Patent to issue. In so doing, it is presumed

that Examiner Colby used his or her knowledge of the art when examining the claims. *K/S Himpp v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Colby has experience in the field of the invention, and that the Examiner properly acted in accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002).

30. The '194 Patent is a pioneering patent, and has been cited as relevant prior art in over 250 subsequent United States Patent Applications, including Applications Assigned to such technology leaders as Ricoh, Robert Half International, IBM, Yahoo!, Oracle, Amazon, Monster, and CareerBuilder.
31. The '086 Patent was examined by Primary United States Patent Examiner Jean M. Corrielus. During the examination of the '086 Patent, the United States Patent Examiner searched for prior art in the following US Classifications: 707/104.1, 707/3, 10, 103R, 1, 2, 4, 5, 705/1, 10, 11, and 705/26.
32. After conducting a search for prior art during the examination of the '086 Patent, the United States Patent Examiner identified and cited the following as the most relevant prior art references found during the search: (i) 4,625,081, 11/1986, Lotito et al.; (ii) 5,164,897, 11/1992, Clark et al.; (iii) 5,978,768, 11/1999, McGovern et al.; (iv) 6,370,510, 4/2002, McGovern et al.; (v) 6,381,592, 4/2002, Reuning; (vi) 6,385,620, 5/2002, Kurzius et al.; (vii) 6,567,784, 5/2003, Bukow; (viii) 6,662,194, 12/2003, Joao; (ix) 6,873,964, 3/2005, Williams et al.; (x) 7,148,991, 12/2006, Suzuki et al.; and (xi) 2003/020531, 6/2003, Parker.
33. After giving full proper credit to the prior art and having conducted a thorough search for all relevant art and having fully considered the most relevant art known at the time, the United States Patent Examiner allowed all of the claims of the '086 Patent to issue. In so doing, it is presumed



that Examiner Corrielus used his or her knowledge of the art when examining the claims. *K/S Himpp v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Corrielus has experience in the field of the invention, and that the Examiner properly acted in accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002).

34. The '086 Patent is a pioneering patent, and has been cited as relevant prior art in over 250 subsequent United States Patent Applications, including Applications Assigned to such technology leaders as Xerox, Yahoo!, EDS, Microsoft, CareerBuilder, Monster, LinkedIn, and IBM.
35. The claims of the Asserted Patents were all properly issued, and are valid and enforceable for the respective terms of their statutory life through expiration.

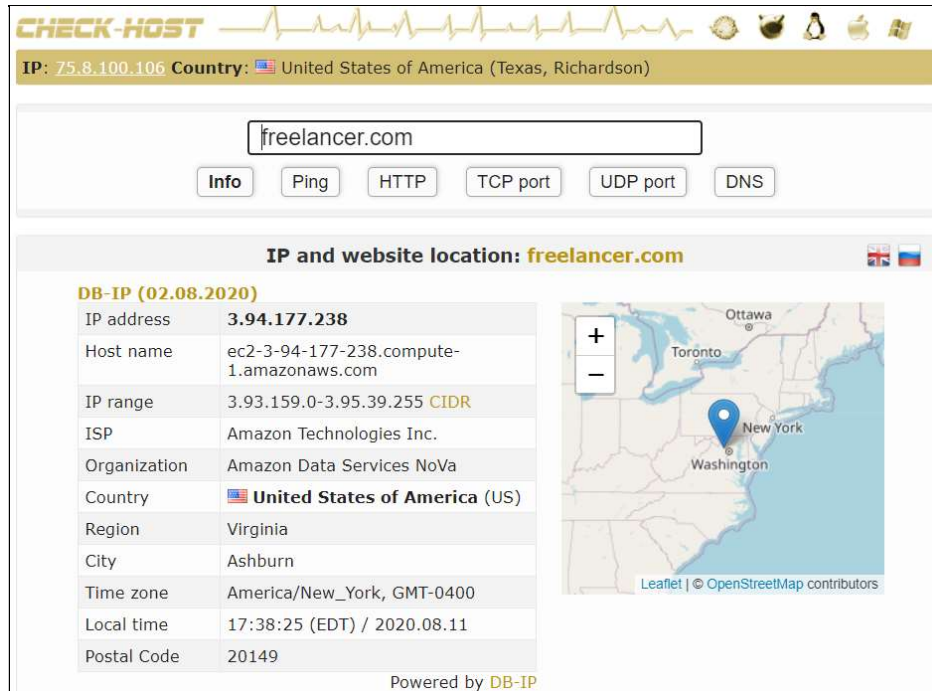
### **THE ACCUSED INSTRUMENTALITIES**

36. On information and belief, Defendant makes, sells, advertises, offers for sale, uses, or otherwise provides the Freelancer website and its ancillary sites, including its various Mobile Applications, in the United States. The Freelancer apparatus comprises servers, hardware, software, and a collection of related and/or linked web pages and mobile applications for providing job search and/or recruitment services to individuals (including job seekers, contractors, and employers) in the United States. The Freelancer system comprises an apparatus with multiple interconnected infrastructures that infringe the Asserted Patents. The public-facing aspect of the Freelancer apparatus is the Freelancer website, which is available at [www.freelancer.com](http://www.freelancer.com), together with the associated Freelancer Mobile Applications for Consumers and Contractors, respectively. Collectively, all of the foregoing comprises the "Accused Instrumentalities."

### **COUNT I** **Infringement of U.S. Patent No. 6,662,194**

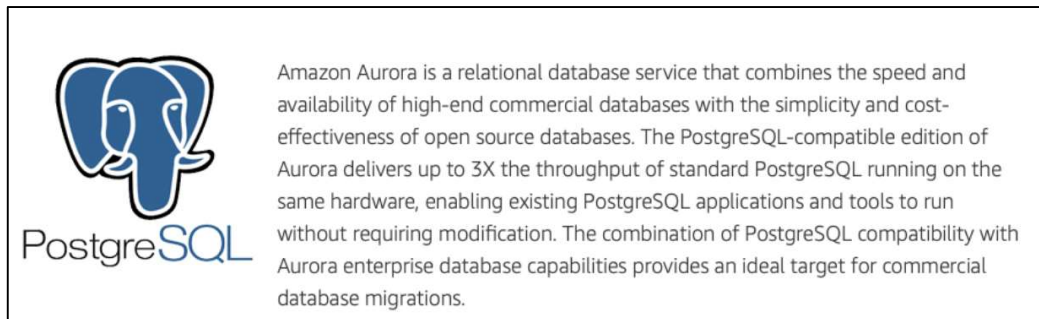
37. Plaintiff incorporates the above paragraphs by reference.

38. Defendant has been on actual notice of the '194 Patent at least as early as the date it received service of this Original Complaint.
39. On information and belief, Defendant owns and controls the operation of the Accused Instrumentalities and generates substantial financial revenues therefrom.
40. On information and belief, Defendant has directly infringed and continues to directly infringe at least Claim 1 of the '194 Patent by making, using, importing, selling, and/or, offering for sale the Accused Instrumentalities.
41. The Accused Instrumentalities comprise an apparatus for providing recruitment information. The infringing apparatus comprises servers, hardware, software, and a collection of related and/or linked web pages and mobile applications for providing recruitment information and services to individuals (including individuals, independent contractors, temporary workers, and/or freelancers) in the United States. On information and belief, the Accused Instrumentalities comprise an apparatus with multiple interconnected infrastructures, including but not limited to multiple data centers, including Amazon Web Services ("AWS") data centers (or functionally equivalent data centers, subject to discovery) located across the United States. *See* Fig. 1 (indicating Amazon Technologies as the ISP of record); *see also* Figs. 2-6.



**FIGURE 1**

See <https://check-host.net/ip-info?host=freelancer.com>, as accessed August 13, 2020.



**FIGURE 2**

See <https://aws.amazon.com/rds/aurora/postgresql-features/>

Amazon ElastiCache allows you to seamlessly set up, run, and scale popular open-Source compatible in-memory data stores in the cloud. Build data-intensive apps or boost the performance of your existing databases by retrieving data from high throughput and low latency in-memory data stores. Amazon ElastiCache is a popular choice for real-time use cases like Caching, Session Stores, Gaming, Geospatial Services, Real-Time Analytics, and Queuing.

Amazon ElastiCache offers fully managed Redis and Memcached for your most demanding applications that require sub-millisecond response times.

**FIGURE 3**

See <https://aws.amazon.com/elasticache/>

Amazon CloudWatch is a monitoring and observability service built for DevOps engineers, developers, site reliability engineers (SREs), and IT managers. CloudWatch provides you with data and actionable insights to monitor your applications, respond to system-wide performance changes, optimize resource utilization, and get a unified view of operational health. CloudWatch collects monitoring and operational data in the form of logs, metrics, and events, providing you with a unified view of AWS resources, applications, and services that run on AWS and on-premises servers. You can use CloudWatch to detect anomalous behavior in your environments, set alarms, visualize logs and metrics side by side, take automated actions, troubleshoot issues, and discover insights to keep your applications running smoothly.

**FIGURE 4**

See <https://aws.amazon.com/cloudwatch/>

Amazon Kinesis makes it easy to collect, process, and analyze real-time, streaming data so you can get timely insights and react quickly to new information. Amazon Kinesis offers key capabilities to cost-effectively process streaming data at any scale, along with the flexibility to choose the tools that best suit the requirements of your application. With Amazon Kinesis, you can ingest real-time data such as video, audio, application logs, website clickstreams, and IoT telemetry data for machine learning, analytics, and other applications. Amazon Kinesis enables you to process and analyze data as it arrives and respond instantly instead of having to wait until all your data is collected before the processing can begin.

**FIGURE 5**

See <https://aws.amazon.com/kinesis/>

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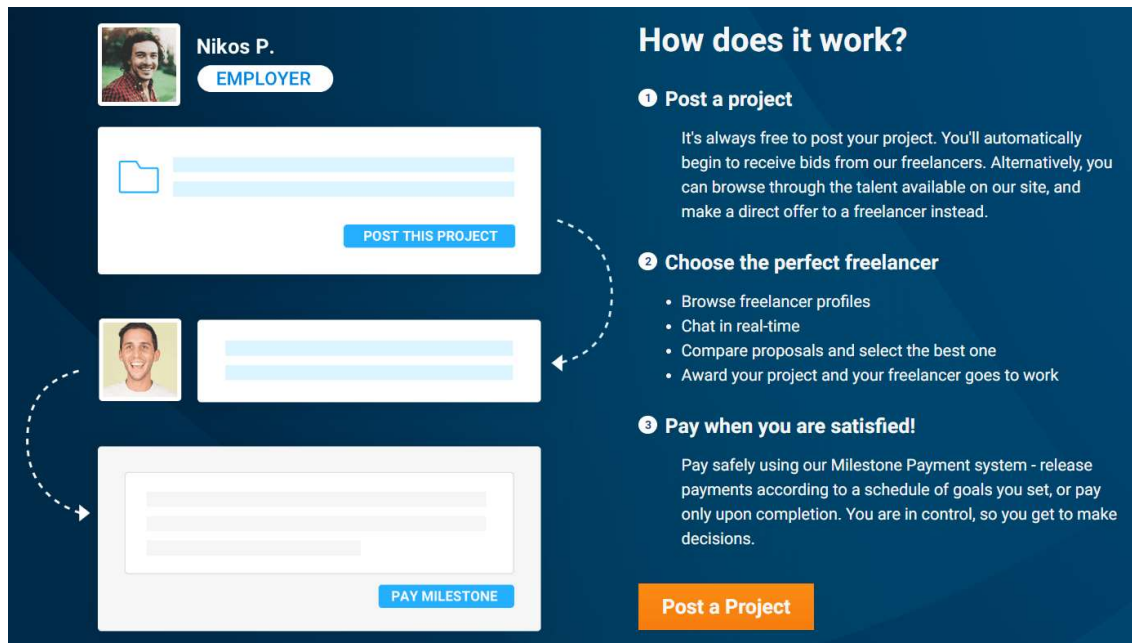
**FIGURE 6**

See <https://aws.amazon.com/redshift/?whats-new-cards.sort-by=item.additionalFields.postDateTime&whats-new-cards.sort-order=desc>

42. On information and belief, the Freelancer Accused Instrumentalities comprise data centers housing memory devices, processing devices, receivers, and transmitters. Such components are maintained

in the servers and associated hardware of the aforementioned data centers. *See* Figs. 1-6 (describing the apparatus comprising data centers with servers, which further comprise the Aurora database cluster (memory/processing device), Amazon Elasticache (processing device/receiver/transmitter), Cloudwatch (processing device), Kinesis (processing device/receiver/transmitter), and Redshift (memory/processing device)).

43. As described above (*see* ¶¶ 41-42), and on information and belief, the Freelancer Accused Instrumentalities comprise a memory device, which stores information regarding at least job openings, positions, assignments, contracts, and/or projects. Such information is collected from users whenever they use the Freelancer apparatus to seek out a contractor or service provider (a “freelancer”). On information and belief, Freelancer refers to such queries collectively as “Project Postings.” *See* Fig. 7.

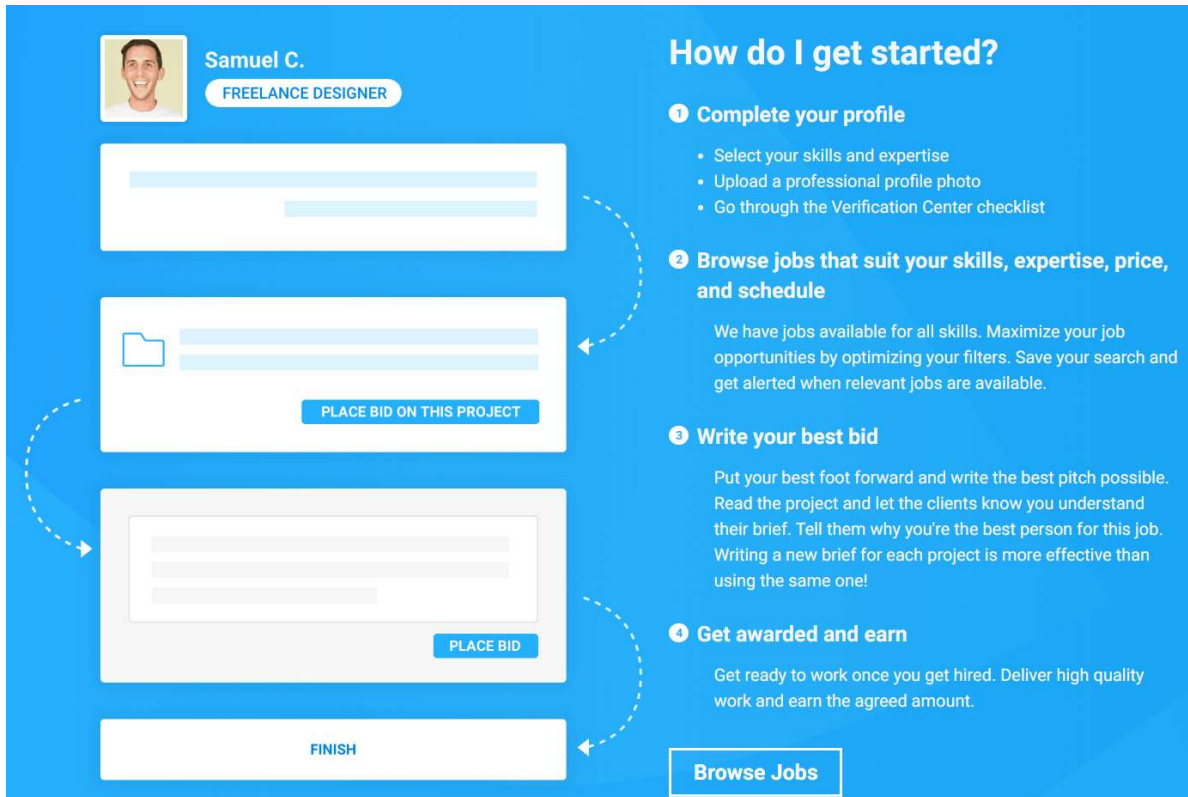


**FIGURE 7**

*See* <https://www.freelancer.com/info/how-it-works/>, as accessed August 13, 2020.

44. Individual users of the Freelancer apparatus submit a Post relating to projects for which they are seeking qualified applicants (contractors and/or service providers), and the Freelancer apparatus uses the input to notify relevant contractors. In the process, the Freelancer apparatus stores the information regarding the job opening, position, assignment, contract, and/or project, as well as a job search request (as described more fully below – *see* ¶ 45). The contractors have the option of expressing interest in accepting the open employment position or opportunity by preparing a bid for the user to consider.
45. The Freelancer memory device (*see* ¶ 43) further stores information regarding contractors' individual job search requests, which comprise profiles and business contact preferences for contractors and other service providers who make use of the Freelancer apparatus. On information and belief, the search request submitted by each contractor or service provider comprises such information as contact information, location, and service category. By signing up with Freelancer as a contractor or service provider, the contractor or service provider submits a search request for leads to be generated that are pertinent to the contractor's specific skillset, and such information is stored in the memory device of the infringing apparatus. *See* Fig. 8.





**FIGURE 8**

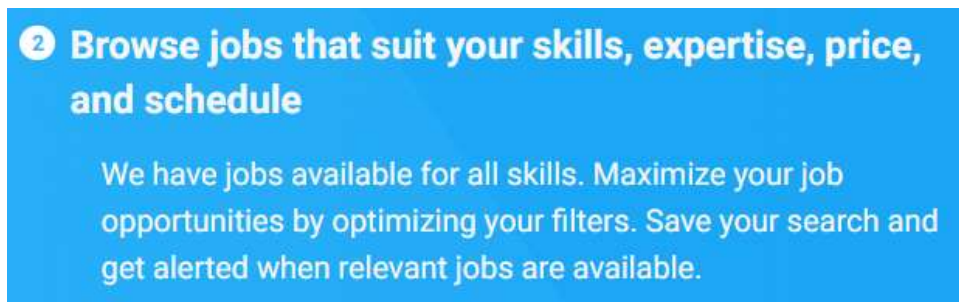
See <https://www.freelancer.com/info/how-it-works/>, as accessed August 13, 2020.

46. As described above (see ¶¶ 41-42), and on information and belief, the Freelancer Accused Instrumentalities comprise a processor for processing the aforementioned information upon the occurrence of a searching event, which occurs, for example, when the individual user of the Freelancer apparatus Posts a Project. On information and belief, the Freelancer apparatus is programmed to detect the occurrence of such searching events in real-time. Further on information and belief, the processing device of the Freelancer apparatus is programmed to use the aforementioned stored information regarding the at least one of a job opening, position, assignment, contract, and/or project (*i.e.*, the “Project Posting”) to generate a message containing information regarding such Project Posting. Such message is generated in response to the



aforementioned job search request (*see* ¶ 45) in real-time upon the occurrence of the searching event (*see* ¶ 44).

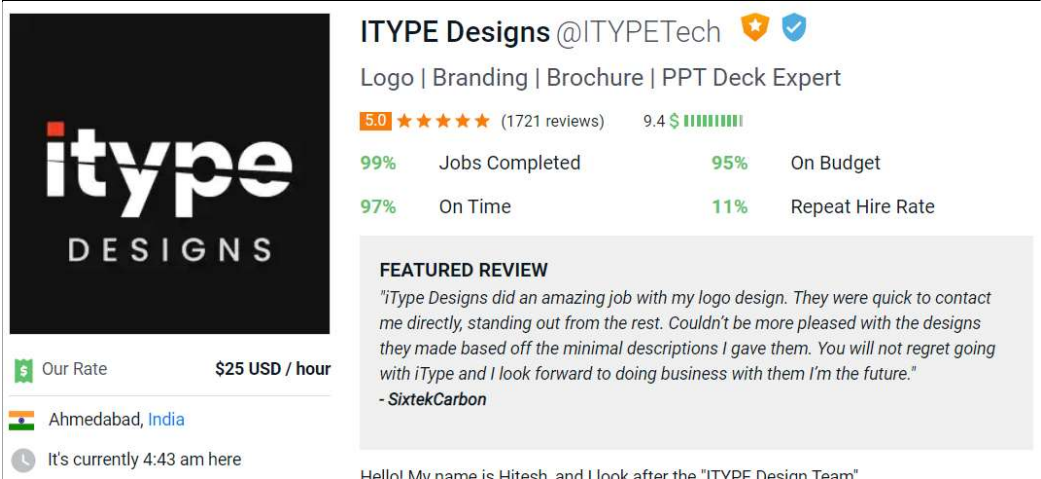
47. As described above (*see* ¶¶ 41-42), and on information and belief, the Freelancer apparatus comprises a transmitter, which causes messages (as generated by the processing device – *see* ¶ 46) concerning the Posted Project to be delivered to the relevant contractors and/or service providers in real-time. *See* Fig. 9. The aforementioned messages are transmitted (via, for example, the Internet or the World Wide Web or electronic mail) to a communication device (*e.g.*, the mobile device or computing device of the individual contractor and/or service provider) associated with an individual (*e.g.*, the individual associated with the aforementioned mobile device or computing device). On information and belief, such messages are generated and transmitted in real-time.



**FIGURE 9**

*See* <https://www.freelancer.com/info/how-it-works/>, as accessed August 13, 2020.

48. Once the user receives the proposals from the contractors/service providers through Freelancer, the user is able to retain the services of the contractor/service provider, and then perform a review of the contractor/service provider on the Freelancer portal. Such reviews are maintained by Freelancer, and are used to rate or grade the contractor/service provider. Users are also able to read the reviews for each contractor/service provider. *See, e.g.*, Fig. 10.



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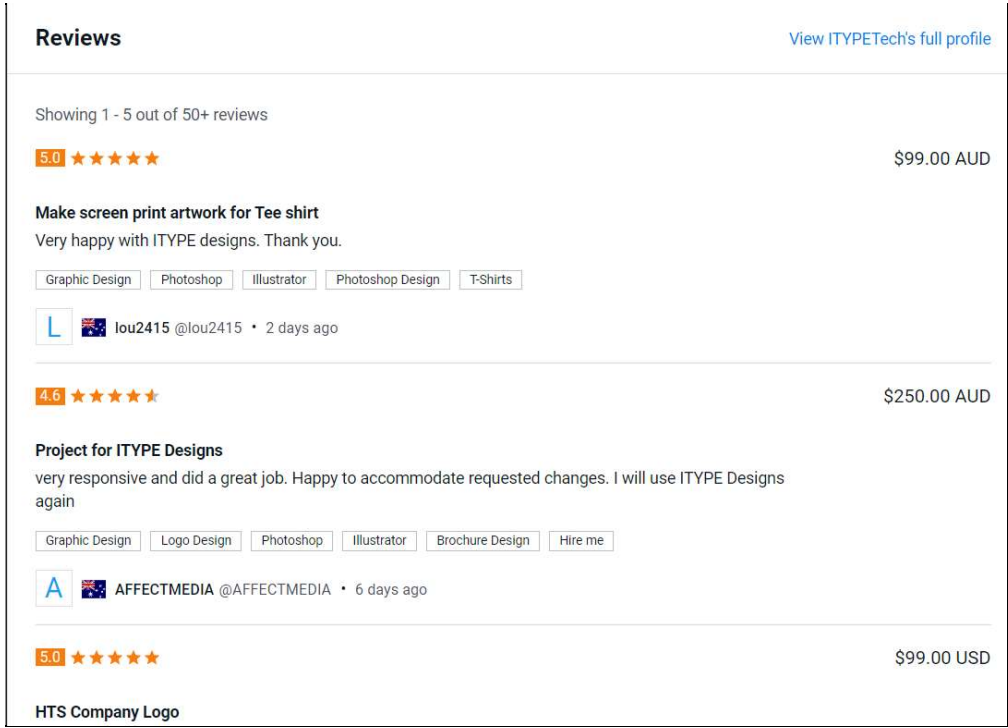
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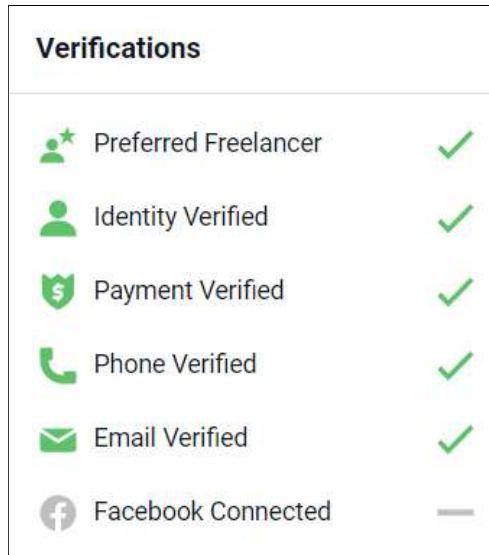
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**FIGURE 10**

49. On information and belief, Freelancer also performs independent checks on contractors/service providers, and maintains such information. On information and belief, contractors/service providers who have successful and/or positive checks are tagged by Freelancer as “Verified by Freelancer Staff” and/or “Preferred Freelancer.” See, e.g., Fig. 11.



**FIGURE 11**

50. Each element of the infringing apparatus is, on information and belief, owned and controlled by Defendant in the United States, and such apparatus directly comprises all elements, and directly performs all functionality, as claimed.
51. The foregoing infringement on the part of Defendant has caused injury to Plaintiff. The amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the '194 Patent.
52. Each of Defendant's aforesaid activities have been without authority and/or license from Plaintiff.
53. Defendant has been on notice of infringement of the '194 Patent at least as early as the date it received service of the Original Complaint. As such, to the extent Defendant continues its infringing activity post-notice, then all such activity is necessarily willful and deliberate.
54. On information and belief, Defendant has a policy or practice of not reviewing the patents of others. Further on information and belief, Defendant instructs its employees to not review the

patents of others for clearance or to assess infringement thereof. As such, Defendant has been willfully blind to the patent rights of Plaintiff.

55. Based on the foregoing, Plaintiff requests an award enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284.

**COUNT II**  
**Infringement of U.S. Patent No. 7,490,086**

56. Plaintiff incorporates the above paragraphs by reference.
57. Defendant has been on actual notice of the '086 Patent at least as early as the date it received service of this Original Complaint.
58. On information and belief, Defendant owns and controls the operation of the Accused Instrumentalities and generates substantial financial revenues therefrom.
59. On information and belief, Defendant has directly infringed and continues to directly infringe at least Claim 18 of the '086 Patent by making, using, importing, selling, and/or, offering for sale the Accused Instrumentalities.
60. As described above (*see* ¶¶ 41-42), and on information and belief, the Accused Instrumentalities comprise an apparatus for providing recruitment information. The infringing apparatus comprises servers, hardware, software, and a collection of related and/or linked web pages and mobile applications for providing recruitment information and services to individuals (including individuals, independent contractors, temporary workers, and/or freelancers) in the United States. On information and belief, the Accused Instrumentalities comprise an apparatus with multiple interconnected infrastructures, including but not limited to multiple data centers, including Amazon Web Services ("AWS") data centers (or functionally equivalent data centers, subject to discovery) located across the United States.

61. As described above (*see* ¶¶ 41-42), and on information and belief, the Freelancer Accused Instrumentalities comprises data centers housing servers, memory devices, processing devices, receivers, and transmitters.
62. As described above (*see* ¶ 45), and on information and belief, the Freelancer Accused Instrumentalities comprise a memory device, which stores information regarding individuals available for applying or interviewing for a job opportunity or hiring need. Namely, on information and belief, the Freelancer memory device stores information concerning contractors and service providers who are available and willing to accept assignments within the Freelancer network. Each such contractor/service provider, on information and belief, is employed by the Freelancer end-user as an Independent Contractor to perform specific, defined tasks for the benefit of the end-user.
63. As described above (*see* ¶¶ 43-44), and on information and belief, the Freelancer Accused Instrumentalities comprise a memory device, which stores information regarding recruitment search requests and/or inquiries. Namely, on information and belief, the Freelancer memory device stores information regarding “Project Postings.”
64. As described above (*see* ¶ 46), and on information and belief, the Freelancer Accused Instrumentalities comprise a processing device which is programmed to automatically detect searching events, which occur when a user of the Freelancer apparatus completes a Project Posting. Each such Project Posting comprises a job posting for Freelancer contractors/service providers, and otherwise comprises an event which creates an interest in an individual (the contractor/service provider) to seek and accept the position. On information and belief, and as described above (*see* ¶¶ 46-47), the processor of the Freelancer instrumentality is programmed to process the

information regarding the recruitment search request and the stored information regarding the individual contractors in real-time to generate a message (*see* ¶ 65).

65. As described above (*see* ¶¶ 46-47), and on information and belief, the Freelancer Accused Instrumentalities comprise a processing device which generates a message containing information regarding the contractors/service providers to the user in response to the Service Request. Such message includes, *inter alia*, the name and contact information for the relevant contractors/service providers, in the form of the Freelancer Profile, as well as bid information.
66. As described above (*see* ¶¶ 46-47), and on information and belief, the Freelancer Accused Instrumentalities comprise a transmitter, which is programmed to transmit the message (as described above – *see* ¶¶ 46-47, 65) to a communication device associated with an employer or hiring entity (*e.g.*, the communication device associated with the party associated with the Project Posting) (*see also* Fig. 7).
67. Each element of the infringing apparatus is, on information and belief, owned and controlled by Defendant in the United States, and such apparatus directly comprises all elements, and directly performs all functionality, as claimed.
68. The foregoing infringement on the part of Defendant has caused injury to Plaintiff. The amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the '086 Patent.
69. Each of Defendant's aforesaid activities have been without authority and/or license from Plaintiff.
70. Defendant has been on notice of infringement of the '086 Patent at least as early as the date it received service of the Original Complaint. As such, to the extent Defendant continues its infringing activity post-notice, then all such activity is necessarily willful and deliberate.

71. On information and belief, Defendant has a policy or practice of not reviewing the patents of others. Further on information and belief, Defendant instructs its employees to not review the patents of others for clearance or to assess infringement thereof. As such, Defendant has been willfully blind to the patent rights of Plaintiff.
72. Based on the foregoing, Plaintiff requests an award enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284.

### **PRAYER FOR RELIEF**

WHEREFORE, GreatGigz Solutions, LLC respectfully requests the Court enter judgment against Defendant as follows:

1. Declaring that Defendant has infringed each of the Asserted Patents;
2. Declaring that Defendant has willfully infringed each of the Asserted Patents;
3. Awarding GreatGigz Solutions, LLC its damages suffered because of Defendant's infringement of the Asserted Patents;
4. Awarding GreatGigz Solutions, LLC its damages suffered due to Defendant's willful infringement of the Asserted Patents;
5. Awarding GreatGigz Solutions, LLC its costs, attorneys' fees, expenses, and interest;
6. Awarding GreatGigz Solutions, LLC ongoing post-trial royalties; and
7. Granting GreatGigz Solutions, LLC such further relief as the Court finds appropriate.

### **JURY DEMAND**

GreatGigz Solutions, LLC demands trial by jury, under Fed. R. Civ. P. 38.

//



//

Dated: November 23, 2020

Respectfully Submitted

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**GREATGIGZ SOLUTIONS, LLC**

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

GREATGIGZ SOLUTIONS, LLC,

Plaintiff,

v.

FREELANCER LIMITED,

Defendant.

Case No. 6:20-cv-00738-ADA

**JURY TRIAL DEMANDED**

**DEFENDANT FREELANCER LIMITED'S MOTION TO DISMISS  
AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM  
OR, IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT**

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## I. INTRODUCTION

Defendant Freelancer Limited (“Defendant” or “Freelancer”) hereby moves this Court to dismiss the entirety of Plaintiff GreatGigz Solutions, LLC’s (“Plaintiff” or “GreatGigz”) First Amended Complaint for Patent Infringement, ECF No. 15, (“Complaint”) under Fed. R. Civ. Proc. 12(b)(6) for failure to state a claim upon which relief can be granted. In the alternative, if the Court does not dismiss the Complaint with prejudice, Freelancer moves the Court to require a more definite statement under Fed. R. Civ. P. 12(e).

The Complaint fails to put Freelancer on proper notice of how its products or services infringe either of the two asserted patents. Instead, the Complaint only provides the barest description of how Freelancer allegedly infringes the asserted patents and merely identifies general components such as “servers, hardware, software, and a collection of related and/or linked web pages and mobile application” as “The Accused Instrumentalities” without providing factual allegations that allow identification of such components. Complaint at ¶36. This generic, non-specific language fails to meet the pleading standard set forth by *Twombly*, *Iqbal*, and the Federal Rules of Civil Procedure.

After considering Freelancer’s original motion to dismiss, GreatGigz did not oppose the motion, but instead filed the Complaint in an attempt to moot the motion. GreatGigz did not take the opportunity to correct the deficiencies in factual pleadings, but instead added further language parroting the patent claims without adding the factual allegations that the rules require. Moreover, not only is the Complaint deficient, it is internally inconsistent and contradictory, alleging both that the accused instrumentalities are data centers of Amazon Web Services (“AWS”) (Complaint at ¶¶41, 60) and that “[e]ach element of the infringing apparatus is, on information and belief, owned and controlled by Defendant...” (*Id.* at ¶¶60 and 67). Such inconsistent and contradictory allegations cannot support the types of plausible and probable inferences that GreatGigz asks the Court to draw.

Based upon the deficiencies in this amendment that do not cure the underlying problems, Freelancer respectfully moves this Court to dismiss the Complaint under Fed. R. Civ. P. 12(b)(6).

If the Court does not dismiss with prejudice and allows an opportunity to amend, Freelancer respectfully moves this Court to require a more definite statement under Fed. R. Civ. P. 12(e), as set forth below.

## II. STATEMENT OF FACTS

GreatGigz filed this lawsuit against Freelancer on August 14, 2020, alleging infringement of U.S. Patent Nos. 6,662,194 (“the ’194 Patent”) (filed as ECF No. 11-1) and 7,490,086 (“the ’086 Patent”) (filed as ECF No. 11-2) (hereinafter collectively referred to as “the Asserted Patents”), each in a separate count. *See* ECF No. 1 at ¶¶ 14, 37-53 and 54-66. Freelancer moved to dismiss the original complaint under Fed. R. Civ. P. 12(b)(6). ECF No. 11. Rather than respond to the motion, Greatgigz filed a new Complaint. (ECF No. 15). The Complaint alleges infringement of the ’194 patent at ¶¶ 37-55 (Count I) and alleges infringement of the ’086 patent at ¶¶ 56-72 (Count II).

Count I of GreatGigz’s Complaint alleges that Freelancer directly infringes claim 1 of the ’194 Patent but fails to address a number of claim limitations or plausibly allege how Freelancer could practice them. Complaint at ¶¶ 37–55. The allegations in Count I include screenshots allegedly from Freelancer.com and third-party websites checkhost.net and amazon.com, without an explanation of how those screenshots support GreatGigz’s infringement allegations. *See, e.g.*, Complaint at ¶ 47.

Count II suffers from the same infirmities—failing to provide sufficient descriptions of how Freelancer allegedly practices claim 18 of the ’086 Patent. Instead, Count II makes conclusory allegations that some (but not all) of the claim limitations of claim 18 are met and cites to paragraphs 41-47 that are themselves conclusory. Complaint at ¶¶ 56-72.

The Complaint also alleges willful infringement of the ’194 and the ’086 Patents. *Id.* at ¶¶ 53, 70. But the Complaint does not allege that Freelancer had knowledge of these patents prior to the filing of this lawsuit, and instead states that Freelancer had knowledge of the ’194 and the ’086 Patents “at least as early as the date it received service of [‘this’ or ‘the’] Original Complaint.” *Id.* at ¶¶ 38, 53, 57, 70. (Technically, service was waived, so there is no such date.)



### III. LEGAL STANDARD

Federal Rule of Civil Procedure 8(a)(2) requires that a complaint contain a “short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citing *Conley v. Gibson*, 355 U.S. 41, 47 (1957)) (internal quotations omitted). While a complaint need not allege detailed factual allegations to survive a Rule 12(b)(6) motion, it is the pleader’s obligation to state the grounds of entitled relief requires “more than labels and conclusions.” *Twombly*, 550 U.S. at 555.

GreatGigz must allege claims that “contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570) (internal quotations omitted). Pleadings that are “no more than conclusions” are “not entitled to the assumption of truth.” *Iqbal*, 556 U.S. at 679 (internal citations omitted). Instead, “[a] claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Bowlby v. City of Aberdeen, Miss.*, 681 F.3d 215, 227 (5th Cir. 2012). Finally, “every element of each cause of action must be supported by specific factual allegations.” *Carlton v. Freer Inv. Group.*, Case No. 5:14-CV-946-DAE, 2017 U.S. Dist. LEXIS 223685, at \*23 (W.D. Tex. Aug. 8, 2017). Thus, to plead direct infringement, “[t]he complaint must place the potential infringer on notice of what activity is being accused of infringement.” *Nalco Co. v. Chem-Mod, LLC*, 883 F.3d 1337, 1350 (Fed. Cir. 2018) (internal quotation marks, alterations, and citation omitted). To provide notice, a plaintiff must generally do more than assert that the product infringes the claim; a plaintiff must show how the defendant plausibly infringes by alleging some facts connecting the allegedly infringing product to the claim elements. See *SIPCO, LLC v. Streetline, Inc.*, 230 F. Supp. 3d 351, 353 (D. Del. 2017) (granting the motion to dismiss because “[t]he complaint contains no attempt to connect anything in the patent claims to anything about any of the accused products”).

As this Court has previously held, a complaint does not meet the required pleading standard where the complaint fails to: (a) identify the actors who practiced each element of the allegedly infringed claim; or to (b) provide any description of how the allegedly infringing products meet all limitations of the allegedly infringed claims. *De La Vega v. Microsoft Corp.*, No. W-19-CV-00612-ADA, 2020 U.S. Dist. LEXIS 116081, at \*16-17 (W.D. Tex. Feb. 11, 2020) (“Because Plaintiff does not include even a short written description of how the accused instrumentalities meet the ‘coupling’ limitation, his complaint fails to state a claim upon which relief can be granted”).

### III. ARGUMENT

Plaintiff’s claims of direct and willful infringement fail to meet the minimum pleading standards recognized by this Court, the Federal Circuit, and the Supreme Court, and thus should be dismissed in their entirety.

#### A. Count I of the Complaint Fails to Plausibly Allege Direct Infringement and Should be Dismissed

GreatGigz alleges in its Complaint that Freelancer infringes apparatus claims.<sup>1</sup> To infringe an apparatus claim, the device must meet all of the structural limitations. *See Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1468 (Fed.Cir.1990) (“[A]pparatus claims cover what a device is, not what a device does.”); *In re Michlin*, 256 F.2d 317, 320 (C.C.P.A. 1958) (“It is well settled that patentability of apparatus claims must depend upon structural limitations and not upon statements of function.”).

GreatGigz accuses Freelancer of infringing “at least Claim 1 of the ’194 Patent.” Complaint at ¶40. GreatGigz premises its infringement allegations on a distributed system of its own imagination — the “Freelancer apparatus” — which requires input from customers, clients, and Freelancer, and which GreatGigz broadly defines to include “servers, hardware, software, and a collection of related and/or linked web pages and Mobile Applications for providing job search and/or recruitment services to individuals (including job seekers, contractors, and employers) in the United States.” Complaint at ¶36. GreatGigz further alleges that the “public-facing aspect of the

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<sup>1</sup> The Complaint accused Freelancer of allegedly infringing claim 1 of the ’194 Patent (Count I) and claim 18 of the ’086 Patent (Count II).

Freelancer apparatus” includes (1) the “Freelancer website, which is available at www.freelancer.com”, and (2) the associated Freelancer Mobile Application for Consumers, and (3) the associated Freelancer Mobile Application for Contractors.<sup>2</sup> *Id.* The Complaint summarily combines these devices together as the “Accused Instrumentalities.” *Id.* (After substituting the words “Freelancer” and “Lyft”, these generic allegations are almost verbatim to the problematic allegations in another case before this Court, demonstrating that the Complaint here is not factually focused on Freelancer, but rather on generic allegations of infringement. *See* ECF No. 22 p. 5 in case no. 6:20-cv-651-ADA.)

This broad allegation alone makes it impossible to decipher specifically who or what is alleged to infringe claim 1 of the ’194 patent. GreatGigz, however, further compounds the issue by introducing alleged third-parties such as “[i]ndividual users of the Freelancer apparatus” and “contractors and/or service providers” (*see, e.g.*, Complaint at ¶44), but without any ability to explain which actors satisfy each part of the apparatus or Accused Instrumentality.

To put this in context, allegedly infringed claim 1 of the ’194 Patent requires a memory device, a processing device, and a transmitter. It requires that these components perform certain specific functions:

1. “a memory device for storing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, and information regarding a job search request;”
2. “a processing device for processing information regarding the job search request upon a detection of an occurrence of a searching event, wherein the processing device is programmed to detect the occurrence of the searching event, wherein the processing device utilizes information regarding the at least one of a job opening, a position, an assignment, a contract, and a project, stored in the memory device, and further wherein the processing device generates a message containing information regarding at least one of a job opening, a position, an assignment, a contract, and a project, wherein the message is responsive to the job search request;” and
3. “a transmitter for transmitting the message to a communication device associated with an individual, wherein the message is transmitted to the communication device in real-time.”

ECF No. 11-1 at 41:56-42:11 (Claim 1).

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<sup>2</sup> Notably, Freelancer does not offer separate applications. Thus, it is unsurprising that GreatGigz could not support the allegations of two mobile applications with factual pleading.

GreatGigz asserts in its Complaint that “[o]n information and belief, the Freelancer Accused Instrumentalities comprise data centers housing memory devices, processing devices, receivers and transmitters”, without providing sufficient factual support for this allegation. Complaint ¶42.

From there, the Complaint makes its allegations about the Accused Instrumentality using only language from the claim, devoid of factual recitations. Complaint at ¶¶43-47. For the “memory” limitation, GreatGigz offers no support for allegations that the “memory” is present in the Freelancer Accused Instrumentalities. Instead, GreatGigz simply states it is present in the Freelancer Accused Instrumentalities and offers a screenshot allegedly from the Freelancer.com website. *Id.* at ¶43. The screenshot does not offer any further details or clarification as to where GreatGigz believes the required “memory” is located, if anywhere, within the GreatGigz-concocted Freelancer apparatus. *Id.* GreatGigz refers to various services allegedly offered by Amazon Web Services at the amazon.com website,<sup>3</sup> not services offered by Freelancer (Complaint ¶42 and Figures 2-6); and without even attempting to connect the dots between those Amazon services and Freelancer, GreatGigz alleges that the memory devices, processing devices, and transmitters are part of those Amazon services. *Id.* at ¶¶42, 43.

GreatGigz offers no factual allegation tying those Amazon services or their alleged devices or transmitters to Freelancer. And notably, GreatGigz later alleges that “Each element of the infringing apparatus is, on information and belief, owned and controlled by [Freelancer] in the United States, and such apparatus directly comprises all elements, and directly performs all functionality, as claimed.” *Id.* at ¶50. Yet, GreatGigz also alleges that Freelancer “has no primary place of business in the United States.” *Id.* at ¶2. GreatGigz does not explain how Freelancer owns and controls such devices in the United States without having a place of business in the United States, yet such devices are also “Amazon” services even though they are allegedly owned and controlled by Freelancer.

GreatGigz cannot decide what to allege, thereby rendering the allegations implausible. Even if GreatGigz tied the allegedly infringing Amazon devices to Freelancer (which it did not), the

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<sup>3</sup> Specifically, Amazon Aurora, Amazon ElastiCache, Amazon CloudWatch, Amazon Kinesis, and Amazon Redshift. *See* Complaint ¶42 and Figures 2-6.

follow-on allegation suggests that it is unidentified Freelancer devices, not Amazon devices that infringe. GreatGigz allegations lack any specificity with respect to Freelancer and are simply implausible due to their internal contradictions. *See Hernandez v. Select Portfolio Servicing, Inc.*, No. CV 15-01896 MMM (AJWx), 2015 U.S. Dist. LEXIS 82922, at \*24 (C.D. Cal. June 25, 2015) (“Contradictory allegations such as these are inherently implausible, and fail to comply with Rule 8, *Twombly*, and *Iqbal*.”); *In re Riddell Concussion Reduction Litig.*, 77 F. Supp. 3d 422, 424 (D.N.J. 2015) (“The Court further finds that Plaintiffs’ essential theory of the case is so unclear and inconsistent that it fails to satisfy the plausibility standard under Rule 12(b)(6).”); *Pastoriza v. Keystone Steel & Wire*, No. 15-cv-1174, 2015 U.S. Dist. LEXIS 165392, at \*19 n.3 (C.D. Ill. Dec. 10, 2015) (quoting a law review article for the proposition that “[The] assumption of truth rule leaves no room for a lower court to pick and choose which pleaded facts to accept as true; it must accept them all, regardless of the consequences to the pleader. If pleaded facts are inconsistent with one of the claims in the complaint and, taken as true, render that claim implausible, then that claim must be dismissed under *Twombly*/*Iqbal* ...”); *Apple Inc. v. Psystar Corp.*, 586 F. Supp. 2d 1190, 1199-200 (N.D. Cal. 2008) (dismissing internally inconsistent pleading as implausible). And if GreatGigz allegations are joint infringement claims, they lack the specific allegations of “direction or control” or a “joint enterprise” that are required in such claims. *Lyda v. CBS Corp.*, 838 F.3d 1331, 1339 (Fed. Cir. 2016) (“A claim of joint infringement thus requires pleading facts sufficient to allow a reasonable inference that all steps of the claimed method are performed and either (1) one party exercises the requisite ‘direction or control’ over the others’ performance or (2) the actors form a joint enterprise such that performance of every step is attributable to the controlling party.”).

In addition to the inconsistency, certain claim limitations are entirely missing from the allegations. For the “processing device” limitation, GreatGigz simply alleges that this is present in the “Freelancer Accused Instrumentalities”, without any allegations as to where (or even “what”) the “processing device” is within the Freelancer apparatus. *Id.* at ¶¶41, 42, 46. As with the preceding paragraphs, GreatGigz alleges that the “processing device” is in Amazon services not linked to

Freelancer and also, inconsistently, alleges that Freelancer owns and controls “[e]ach element of the infringing apparatus” without identifying any “processing device” owned by Freelancer. *Id.* at ¶ 50.

With respect to the “transmitter” limitation, GreatGigz alleges that “the Freelancer apparatus comprises a transmitter,” but does not offer any support for this assertion. Similar to its allegations regarding the “memory” limitation, GreatGigz simply states that it is present in the Freelancer Accused Instrumentalities and offers an unlabeled screenshot allegedly taken from the Freelancer.com website. *Id.* at ¶¶41,42, 47. The screenshot does not offer any details or clarification as to where GreatGigz believes the required “transmitter” is located, if anywhere, within the GreatGigz-concocted Freelancer apparatus. *Id.* at ¶47. And like the other limitations, GreatGigz cannot decide whether it is alleging that the “transmitter” is in the Amazon services that are not linked to Freelancer or in the unidentified apparatus allegedly “owned and controlled by” Freelancer in the United States. *Id.* at ¶50.

Providing screenshots without further elaboration falls short of the pleading requirements of *Twombly* and *Iqbal*. In fact, this Court recently dismissed **with prejudice** claims made by a plaintiff that “only presented three screenshots of evidence without explaining how that evidence show[ed]” how a defendant infringed an element of a claim. *De La Vega*, 2020 U.S. Dist. Lexis 116081 at \*16-17. For each of the limitations, GreatGigz has done nothing more than “copy[] the language of a claim element, and then baldly stat[e]” that Freelancer’s Accused instrumentalities have such an element. See *Northstar Innovations, Inc. v. Micron Tech., Inc.*, No. 17-506-LPS-CJB, 2017 U.S. Dist Lexis 189624, \*5 (D. Del. Nov. 16, 2017) (stating “There needs to be *some facts* alleged that articulate *why it is plausible* that the other party’s product infringes that patent claim – not just the patentee asserting, in conclusory fashion, that it is so.”).

Moreover, GreatGigz failed to even allege facts related to multiple elements of claim 1 of the ‘194 patent, further confirming that GreatGigz is unable to state a claim upon which relief can be granted. Claim 1 requires at least four things of the processing device: (a) “a processing device for processing information regarding the job search request upon a detection of an occurrence of a searching event”; (b) “the processing device is programmed to detect the occurrence of the

searching event”; (c) “the processing device utilizes information regarding the at least one of a job opening, ... stored in the memory device”; and (d) “the processing device generates a message containing information regarding at least one of a job opening, ... wherein the message is responsive to the job search request...” ECF No. 11-1 at col. 41 (claim 1). GreatGigz merely parrots this language without plausibly alleging facts, stating,

On information and belief, the Freelancer apparatus is programmed to detect the occurrence of such searching events in real-time. Further on information and belief, the processing device of the Freelancer apparatus is programmed to use the aforementioned stored information regarding the at least one of a job opening, position, assignment, contract, and/or project (i.e., the “Project Posting”) to generate a message containing information regarding such Project Posting. Such message is generated in response to the aforementioned job search request (see ¶ 45) in real-time upon the occurrence of the searching event (see ¶ 44).

Complaint ¶46. GreatGigz does not add any facts plausibly demonstrating anything about the “processing device.” Indeed, the Complaint is silent about how the unidentified “processing device” might “detect the occurrence of the searching event.” *See generally* Complaint. Nor does the Complaint identify the “message” of claim 1 in any manner. *See generally* Complaint.

In addition to lacking allegations about the processor, the Complaint is devoid of any factual allegation that would permit Freelancer to identify the alleged “transmitter”, a key element of the claim. ECF No. 11-1 at col. 41 (claim 1). The Complaint states, “the Freelancer apparatus comprises a transmitter...” Complaint ¶47. However, the Complaint merely parrots the language of the claim without identifying this alleged “transmitter.” *Id.* One cannot discern the identity of the accused transmitter from the allegations of the Complaint.

District Courts that have analyzed this issue have generally agreed that pleadings that boil down to “[y]our product infringes my patent claim” amount to “little more than a conclusory statement.” *See Modern Telecom Sys., LLC v. TCL Corp.*, Case No. 17-583-LPS-CJB, 2017 U.S. Dist. LEXIS 209717, at \*5 (D. Del. Dec. 21, 2017), *L.M. Sessler Excavating & Wrecking, Inc. v. Bette & Cring, LLC*, Case No. 16-CV-06534-FPG, 2017 U.S. Dist. LEXIS 171708, at \*10-11 (W.D.N.Y. Oct. 17, 2017) (concluding that plaintiff failed to satisfy the pleading standard for its direct infringement claim where, to the extent that plaintiff’s complaint alleged that defendant performed each step of the patent claim at issue, it only did so by “parroting the patent claim and prefacing it with an



introductory attribution to [d]efendant” and noting that by “describing [d]efendant’s conduct solely in the words of its own patent, [p]laintiff implicitly concludes that [d]efendant’s process necessarily meets every element of the patent claim—a legal determination, not a factual allegation”); *SIPCO*, 230 F. Supp. 3d at 353 (“Right now, Plaintiff makes two factual allegations. One, here are ten patents we own. Two, you sell some products, which we have identified. Plaintiff makes a legal conclusion, to wit, the sales of your products infringe ou[r] patents. This is insufficient to plausibly allege patent infringement.”).

A plaintiff must “articulate *why it is plausible* that the other party’s product infringes the patent claim.” *Northstar*, 2017 U.S. Dist. LEXIS 189624 at \*5. GreatGigz has not done so. Instead, it merely described either Amazon’s or Freelancer’s Accused Instrumentalities and the use of those instrumentalities “solely in the words of its own patent,” and thus “implicitly conclude[d] that Defendant’s process necessarily meets every element of the patent claim—a legal determination, not a factual allegation.” *L.M. Sessler*, 2017 U.S. Dist. LEXIS 171708 at \* 10. Because GreatGigz (a) has not provided any description of how the Freelancer Accused Instrumentalities allegedly meets any of the limitations found in claim 1 of the ’195 patent and (b) has not plausibly pleaded joint infringement, Count I should be dismissed for failure to state a claim upon which relief can be granted.

## **B. Count II of the Complaint Fails to Plausibly Allege Direct Infringement and Should Be Dismissed**

Plaintiff’s allegation in Count II is also deficient and should be dismissed for the same reasons discussed above in reference to Count I. In fact, Count II is pled with fewer allegations than Count I.

In Count II, GreatGigz alleges that Freelancer directly infringes claim 18 of the ’086 patent. Complaint at ¶59. Similar to Claim 1 of the ’194 patent, Claim 18 of the ’086 patent also requires “a memory device”, “a processing device” and “a transmitter”. ECF No. 11-2 at 44:5-36 (claim 18). Plaintiff’s allegations in Count II refer generally to the allegations in Count I for support. Complaint at ¶¶60-66. Count II repeatedly instructs Freelancer to refer to what was “described above.” For

the same reasons as set forth above with respect to Count I, Count II is also fails to state a claim upon which relief should be granted; Count II should also be dismissed.

In addition to the deficiencies shared with Count I, Count II provides a separate basis for dismissal as Count II fails to address all the claim limitations found in Claim 18 of the '086 patent.

Count II alleges direct infringement of claim 18 of the '086 patent. Complaint at ¶59. Claim 18 requires “a memory device”, “a processing device” and “a transmitter.” ECF No. 11-2 at 44:5-36 (claim 18). In Count II, however, GreatGigz fails to identify in the “Accused Instrumentalities” a processing device that (1) “processes the information regarding a recruitment search request or inquiry upon a detection of an occurrence of a searching event” or (2) “utilizes the information regarding an individual stored in the memory device in processing the information regarding a recruitment search request or inquiry.” *Id.* at 44:12–30. The Complaint is wholly silent as to item 1, a “processing device [that] processes the information regarding a recruitment search request or inquiry upon a detection of an occurrence of a searching event.” No factual allegation is made. And the Complaint merely repeats claim language in conclusory fashion alleging, without support, that the “the processor of the Freelancer instrumentality is programmed to process the information regarding the recruitment search request and the stored information regarding the individual contractors in real-time to generate a message.” Complaint ¶ 64. But simply parroting claim language and alleging that “[y]our product infringes my patent claim” does not meet the plausibility pleading standard for these claim limitations. *See Modern Telecom Sys.*, 2017 U.S. Dist. LEXIS 209717, at \*5.

Further, GreatGigz does not make even cursory factual allegations that would allow Freelancer to identify the accused “transmitter” limitation in the Freelancer Accused Instrumentalities. *See*, Complaint at ¶66.

And similar to Count I, GreatGigz’s allegations are internally inconsistent. While GreatGigz identifies Amazon services (*see* Complaint ¶¶60, 61 (referring to ¶¶41, 42)), GreatGigz offers no factual allegation tying those Amazon services or their devices or transmitters to Freelancer. And notably, GreatGigz later alleges that “Each element of the infringing apparatus is, on information

and belief, owned and controlled by [Freelancer] in the United States, and such apparatus directly comprises all elements, and directly performs all functionality, as claimed.” *Id.* at ¶67. Yet, GreatGigz also alleges that Freelancer “has no primary place of business in the United States.” *Id.* at ¶12. GreatGigz does not explain how Freelancer owns and controls such devices in the United States without having a place of business in the United States, yet such devices are also “Amazon” services even though they are allegedly owned and controlled by Freelancer.

GreatGigz cannot decide what to allege, thereby rendering the allegations implausible. Even if GreatGigz tied the allegedly infringing Amazon devices to Freelancer (which it did not), the follow-on allegation suggests that it is unidentified Freelancer devices, not Amazon devices that infringe. GreatGigz allegations lack any specificity with respect to Freelancer and are simply implausible due to their internal contradictions. *See Hernandez*, 2015 U.S. Dist. LEXIS 82922, at \*24 (“Contradictory allegations such as these are inherently implausible, and fail to comply with Rule 8, *Twombly*, and *Iqbal*.”); *Riddell Concussion Reduction*, 77 F. Supp. 3d at 424 (inconsistent pleading is not plausible); *Pastoriza*, 2015 U.S. Dist. LEXIS 165392, at \*19 n.3 (all pled facts are accepted as true regardless of consequences to pleader); *Apple*, 586 F. Supp. 2d at 1199-200 (dismissing internally inconsistent pleading as implausible). And if GreatGigz allegations are joint infringement claims, they lack the specific allegations of “direction or control” or a “joint enterprise” that are required in such claims. *Lyda*, 838 F.3d at 1339.

Therefore, because Count II of the Complaint fails to support every element of claim 18 of the ‘086 patent, the allegations contained within Count II must be dismissed. *See Carlton*, 2017 U.S. Dist. LEXIS 223685 at \*23-26.

**C. Plaintiff’s Allegations of Willful Infringement are Deficient and Should be Dismissed**

**1. The Complaint’s allegations of pre-suit willfulness should be dismissed**

To the extent GreatGigz alleges pre-suit willful infringement, such allegations should be dismissed because Plaintiff’s allegation failed to plead pre-suit knowledge of any of the Asserted Patents.

The Complaint does not allege that Freelancer knew about any of the Asserted Patents before the filing of this lawsuit. *See* Complaint at ¶¶ 38, 57. This Court explained the appropriate standard to adequately plead a claim of willful infringement in *Parity Networks*:

To state a claim for willful infringement a plaintiff must allege facts plausibly showing that *as of the time of the claim's filing*, the accused infringer: (1) knew of the patent-in-suit; (2) after acquiring that knowledge, it infringed the patent; and (3) in doing so, it knew, or should have known, that its conduct amounted to infringement of the patent. Further, a plaintiff should plead willfulness with sufficient articulation of the relevant fact.

*Parity Networks, LLC v. Cisco Sys., Inc.*, No. 6:19-cv-00207-ADA, 2019 U.S. Dist. LEXIS 144094, at \*7 (W.D. Tex. July 26, 2019) (emphasis added) (*quoting Valinge Innovation AB v. Halstead New England Corp.*, No. 16-1082-LPS-CJB, 2018 U.S. Dist. LEXIS 88696, 2018 WL 2411218, at \*13 (D. Del. May 29, 2018)). In contrast to the complaint in *Parity Networks*, which “adequately allege[d] that Defendant had knowledge of infringement prior to the filing of the complaint,” GreatGigz concedes the absence of facts to show such pre-suit knowledge by alleging only that Freelancer “has been on actual notice of the [’194 Patent and the ’086 Patent] at least as early as the date it received service of this Original Complaint.” Complaint at ¶¶ 38, 57. Even if it this allegation was sufficient (which it is not), it cannot be correct, because Freelancer waived service and was never served.

Because GreatGigz did not allege that Defendant “knew of” the ’194 and ’086 Patents *prior* to the filing of the lawsuit, Plaintiff failed to allege at least one of the requisite components of willful infringement. *Parity Networks*, 2019 U.S. Dist. LEXIS 144094 at \*7 (“a plaintiff must allege facts plausibly showing that *as of the time of the claim's filing*, the accused infringer ... knew of the patent-in-suit”) (emphasis added); *Valinge*, 2018 U.S. Dist. LEXIS 88696 at \*35-36 (granting defendants’ motion to dismiss allegations of willful infringement where plaintiff did not plausibly allege that defendants had knowledge of that patents as of the date of the filing of the original complaint).

Plaintiff’s allegations of willful infringement should therefore be dismissed.

## 2. The allegations of post-filing willfulness should be dismissed

Plaintiff’s allegations also do not meet the standard for supporting a claim for willfulness based on post-filing conduct. This Court and others have dismissed claims for enhanced damages

where the complaint alleges nothing more than a garden-variety patent case, as GreatGigz has done. See *Flash-Control, LLC v. Intel Corp.*, C.A. No. 1:19-cv-1107-ADA, No. 35 at p. 16 (W.D. Tex. Oct. 31, 2019) (dismissing without prejudice allegations regarding post-suit willfulness and citing to its decision in *Parity Networks* as the standard for sufficient allegations); *VLSI Tech. LLC v. Intel Corp.*, C.A. No. 6:19-cv-00254-ADA, No. 52 (W.D. Tex. Aug. 6, 2019) (dismissing without prejudice an enhanced damages claim based on willful infringement); *Meetrix IP, LLC v. Cisco Sys., Inc.*, No. 1-18-CV-309-LY, 2018 U.S. Dist. LEXIS 225719, at \*8 (W.D. Tex. Nov. 30, 2018) (dismissing willful infringement claim and agreeing that “the complaint does not allege any facts raising a plausible inference of the egregious behavior required under Halo”); see also *M & C Innovations, LLC v. Igloo Prod. Corp.*, No. 4:17-CV-2372, 2018 U.S. Dist. LEXIS 152075, at \*14-15 (S.D. Tex. July 31, 2018) (dismissing willful infringement claim as the patent claims were “garden-variety”).

As discussed above, Plaintiff’s only allegation of Freelancer’s actual knowledge of the patent is by way of service of the original complaint. Plaintiff’s remaining willfulness allegations are simply that Freelancer, without any additional explanation, continues to willfully infringe. To this allegation, this amended version of the Complaint has added an unfounded allegation made “on information and belief” about alleged instructions, policies or practices of which GreatGigz either has no knowledge or chose not to support with any facts:

53. Defendant has been on notice of infringement of the ’194 Patent at least as early as the date it received service of the Original Complaint. As such, to the extent Defendant continues its infringing activity post-notice, then all such activity is necessarily willful and deliberate.

54. On information and belief, Defendant has a policy or practice of not reviewing the patents of others. Further on information and belief, Defendant instructs its employees to not review the patents of others for clearance or to assess infringement thereof. As such, Defendant has been willfully blind to the patent rights of Plaintiff.  
...

70. Defendant has been on notice of infringement of the ’086 Patent at least as early as the date it received service of the Original Complaint. As such, to the extent Defendant continues its infringing activity post-notice, then all such activity is necessarily willful and deliberate.

71. On information and belief, Defendant has a policy or practice of not reviewing the patents of others. Further on information and belief, Defendant instructs its

employees to not review the patents of others for clearance or to assess infringement thereof. As such, Defendant has been willfully blind to the patent rights of Plaintiff.

Complaint at ¶¶ 53, 54, 70, 71.

The Complaint alleges no facts to support a plausible inference that Freelancer knew or should have known that it was purportedly infringing the '194 Patent or the '086 Patent. *Id.* at ¶¶ 53, 70. Nor does Complaint identify any facts supporting the allegations about policies, practices, or instructions (*id.* at ¶¶ 54, 71); if such policy, practice, or instruction actually existed and GreatGigz had a basis for the allegation, such facts should be identified in the Complaint, but are not. *See generally* Complaint. Rather, the allegations merely parrot a legal standard and are verbatim copies of conclusory allegations made in a complaint against another defendant in this court. *Compare* Complaint ¶¶ 54, 71 to ECF No. 18 (at ¶¶ 62, 80, 96, 113) in case no. 6:20-cv-00651-ADA. In short, the Complaint fails to provide any factual support or reasoning for Plaintiff's bald allegations of willful infringement, much less "with sufficient articulation of the relevant facts." *See Parity Networks*, 2019 U.S. Dist. LEXIS 144094 at \*7-8.

Moreover, to the extent that GreatGigz attempts to rely upon an allegation of "willful blindness", even if its conclusory allegations were accepted by the Court (which they should not be), GreatGigz failed to plead facts sufficient to permit an inference that both prongs of the willful blindness test were met. The Supreme Court held that there are:

... two basic requirements: (1) the defendant must subjectively believe that there is a high probability that a fact exists and (2) the defendant must take deliberate actions to avoid learning of that fact.

*Glob.-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 769 (2011) ("[A] willfully blind defendant is one who takes deliberate actions to avoid confirming a high probability of wrongdoing and who can almost be said to have actually known the critical facts."). Even if the Court construes the allegations in the manner most generous to GreatGigz and does not require any factual support, it is apparent that the Supreme Court's requirement number one is completely absent from the pleadings. GreatGigz makes no allegation regarding a subjective belief by Freelancer of a "high probability that a fact exists." That is, even if Freelancer had a general policy, practice, or instruction as GreatGigz baselessly alleges, such allegation would not be sufficient. *See, e.g., VLSI Tech. LLC v.*

*Intel Corp.*, Case No. 18-0966-CFC, 2020 U.S. Dist. LEXIS 112901, at \*11 (D. Del. June 26, 2020) (“[H]aving a general policy with respect to thousands of patents in a field of technology does not plausibly establish or imply that Intel subjectively believed there was a high probability that its acts constituted infringement of two specific patents.”).

Because the Complaint fails to plead sufficient factual support for its allegations of willful infringement, Plaintiff’s willful infringement allegations are necessarily insufficient and should be dismissed.

**D. In the Alternative, The Court Should Require a More Definite Statement Under Fed. R. Civ. P. 12(e)**

If the Court does not dismiss the Complaint with prejudice, Freelancer respectfully moves for a more definite statement under Fed. R. Civ. P. 12(e), as set forth herein. “A Rule 12(e) motion requires a court to determine whether the complaint is ‘so vague or ambiguous that the party cannot reasonably prepare a response.’” *Estech Sys. v. Regions Fin. Corp.*, No. 6:20-cv-00322-ADA, 2020 U.S. Dist. LEXIS 200484, at \*5 (W.D. Tex. Oct. 28, 2020). In this case, the following items are so vague and ambiguous that Freelancer cannot reasonably prepare a response.

GreatGigz alleges in Complaint paragraphs 54 and 71, “on information and belief” that Freelancer (1) has “a policy or practice” and (2) “instructs its employees” regarding review of patents. Freelancer is not aware of any such policies, practices, or instructions, and requests that the Court require GreatGigz to identify the specific policies, practices, and instructions alleged and to state the basis for making the allegation “on information and belief” so that Freelancer can reasonably attempt to prepare a response.

GreatGigz alleges in Complaint paragraphs 41 and 60 that the Accused Instrumentalities include “Amazon Web Services,” a service of a third-party company. GreatGigz alleges in Complaint paragraph 2 that Freelancer has no place of business in the United States. Yet in paragraphs 50 and 67, GreatGigz alleges that “Each element of the infringing apparatus is, on information and belief, owned and controlled by [Freelancer] in the United States.” These allegations are vague and ambiguous insofar as they state both that Amazon and that Freelancer each



separately own, control, and operate the entirety of the accused devices, such that Freelancer cannot reasonably attempt to respond to the conflicting allegations. The allegations are further vague and ambiguous in that they state both the Freelancer does not have a place of business in the United States and that Freelancer does have a place of business in the United States (i.e., the alleged location of the devices allegedly owned and controlled by Freelancer). Freelancer requests that the Court require GreatGigz to specifically identify what devices are accused and whether the accused devices are owned and operated by Amazon alone, by Freelancer alone, or by both in concert, such that Freelancer can reasonably attempt to prepare a response.

GreatGigz alleges the existence of a memory, a processor, and a transmitter, as detailed above in this motion, but does not provide facts that would allow Freelancer to identify any of these devices. And GreatGigz, as detailed above, does not provide facts that would allow Freelancer to identify many of the required functional capabilities of the claims. Freelancer requests that the Court require GreatGigz to specifically identify each of the devices required by the claim limitations and specifically identify facts that allow Freelancer to understand what functionality is being accused with respect to each of the devices. Such detail is expected to permit Freelancer to reasonably attempt to prepare a response.

GreatGigz alleges that the “infringing apparatus comprises servers, hardware, software, and a collection of related and/or linked web pages and mobile applications for providing recruitment information and services to individuals” (Complaint ¶ 41), but remains vague and ambiguous about how these various devices (e.g., servers and hardware) and software (e.g., software, web pages, and mobile applications) allegedly infringe, thereby preventing Freelancer from reasonably attempting to respond. Freelancer requests that the Court require GreatGigz to specifically identify how each of these devices and software forms part of the allegedly infringing devices so that Freelancer can reasonably attempt to prepare a response.

For the foregoing reasons, if the Complaint is not dismissed with prejudice, Freelancer respectfully requests that the Court order a more definite statement as to each of the items listed in this section.

#### IV. CONCLUSION

For the foregoing reasons, Freelancer respectfully requests that the Court grant its motion and dismiss GreatGigz's Complaint in its entirety for failure to plausibly state a claim for relief. If the Court does not dismiss the Complaint with prejudice, Freelancer respectfully requests that the Court order GreatGigz to provide a more definite statement with respect to each of the categories of vague and ambiguous allegations listed above.

Respectfully submitted,

Dated: January 21, 2021

By: /s/ Andrew T. Oliver  
ANDREW T. OLIVER

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Freelancer Limited*

#### **CERTIFICATE OF SERVICE**

I hereby certify that on January 21, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record who have consented to electronic service.

/s/ Andrew T. Oliver  
Andrew T. Oliver

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**GREATGIGZ SOLUTIONS, LLC,**

Plaintiff

v.

**FREELANCER, LTD.,**

Defendant

**Case No. 6:20-cv-00738-ADA**

**OPPOSITION TO DEFENDANT'S MOTION TO DISMISS (Dkt. 19)**

Plaintiff GreatGigz Solutions, LLC respectfully submits this Opposition to Defendant's Motion to Dismiss under Rule 12(b)(6) (Dkt. 19). The Operative Complaint is the First Amended Complaint (Dkt. 15). Defendant fails to meet its burden for the Court to grant its motion to dismiss.

**I. Introduction and General Response**

Defendant Freelancer strings together case citations to create a legal standard far beyond that required under *Twombly*, *Iqbal*, *Disc Disease*, and Federal Rule of Civil Procedure 8. The First Amended Complaint filed by Plaintiff satisfies and exceeds the pleading-stage standards in patent cases, given that it: (i) identifies the accused products by name; (ii) places defendant on notice of what conduct infringes; and (iii) raises plausible inferences of infringement. *Encoditech v. Citizen Watch*, 2019 WL 2601347 at \*4 (W.D. Tex. 2019); *Inhale, Inc. v. Gravitron*, 2018 WL 7324886 at \*1-2 (W.D. Tex. 2018). As will be shown more fully herein, a review of the First Amended Complaint here plainly reveals allegations far more detailed and

complete than were those rejected by this Court in *Entech v. Regions Financial*, 2020 WL 6324321 (W.D. Tex. 2020) (rejecting as inadequate the mere identification of “VoIP telephone systems and networking equipment”) (*see* 6:20-cv-0322-ADA at Dkt. 1 (Complaint) at ¶ 20). Defendant’s Motion must be denied.

### **I. Allegations of Direct Infringement are More Than Sufficient**

Freelancer’s Motion, at its core, takes issue with the purported absence of specific allegations concerning the specific components within its own infringing system. By way of example, Freelancer chides Plaintiff for being unable, at the pleading stage, to identify with specificity the “memory device,” “processing device,” and “transmitter” which are quite obviously not subject to specific identification without fact discovery and source code review.

In any event, Defendant has been provided with specific notice of the infringing apparatus, including the aforementioned “memory device,” “processing device,” and “transmitter”:

Such components are maintained in the servers and associated hardware of the aforementioned data centers. See Figs. 1-6 (describing the apparatus comprising data centers with servers, which further comprise the Aurora database cluster (*memory/processing device*), Amazon Elasticache (*processing device/receiver/transmitter*), Cloudwatch (*processing device*), Kinesis (*processing device/receiver/transmitter*), and Redshift (*memory/processing device*)).

*See* Amended Complaint at ¶ 42 (emphasis added).

Without question, the allegations directed to Freelancer are specific, and include the specific identification of the components of the infringing system in which Plaintiff believes the infringing “memory device,” “processing device,” and “transmitter” are located; namely, in the so-called Aurora Database Cluster, Elasticache, Cloudwatch, Kinesis, and Redshift. At the

pleading stage, Plaintiff cannot possibly be more specific, given the fact that the individual components are not openly available for public inspection at the local Wal-Mart.

Defendant also complains of the purported incomprehensibility of the allegations pertaining to ownership and control of the infringing system. On inspection, however, Defendant's tortured creation of an "internally inconsistent" set of allegations does not hold up. On the one hand, the allegation in the First Amended Complaint relative to *jurisdiction and venue* makes the unremarkable factual assertion that Freelancer does not have "a primary place of business in the United States." Dkt. 15 at ¶ 2. In the event Defendant views this allegation as incorrect, it can certainly provide rebuttal in a formal Answer to the First Amended Complaint.

On the other hand, of course, are the allegations concerning ownership and control of the infringing system. Such contentions have nothing to do with, and are not inconsistent with, the allegation that Defendant does not maintain a primary place of business in the United States. As alleged in the First Amended Complaint, the operation of the infringing system is "owned and controlled by" Defendant, and such ownership and control "generates substantial financial revenues" to the benefit of Defendant. *See* Dkt. 15 at ¶ 39; *see also id.* at ¶¶ 50, 58, 59, 67. Moreover, the Defendant is alleged to be a direct infringer, by virtue of its "making, using, importing, selling, and/or offering for sale the Accused Instrumentalities." *Id.* at ¶ 40. Defendant cannot seriously contest that it is in fact a directly infringing "user" of the infringing system, inasmuch as it is solely responsible for its existence in the United States and its use by over 40 Million<sup>1</sup> individuals. *NTP, Inc. v. Research in Motion, Ltd.*, 418 F.3d 1282, 1317 (Fed. Cir. 2005) (abrogated on other grounds by *IRIS Corp. v. Japan Airlines Corp.*, 769 F.3d 1359, 1361 n.1 (Fed. Cir. 2014)); *Synchronoss Tech. Inc. v. Dropbox, Inc., et al.*, --- F.3d ----, 2021

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<sup>1</sup> *See* <https://apps.apple.com/us/app/freelancer-hire-find-jobs/id927810012> (Freelancer Mobile App is the Number One Job Site App, with over 40 Million users).

WL 520047, \*8 (Fed. Cir. February 12, 2021) (“[T]o ‘use’ a system for purposes of [direct] infringement, a party must put the invention into service, *i.e.*, control the system as a whole and obtain a benefit from it”). Moreover, it is beyond dispute that the Defendant here has made, owns, and uses the code on which the entire infringing system operates. Again, as noted above, the First Amended Complaint makes clear allegations concerning ownership, control, and benefit on the part of Defendant.

Still further, and as noted, Defendant is also a direct infringer of the Asserted Claims by “making” the Accused Instrumentalities in the United States. Of course, to “make” an infringing system for purposes of direct infringement, one must do no more than “combine all the elements.” *See, e.g., Centillion Data Systems v. Qwest Comms. Intern.*, 631 F.3d 1279, 1288 (Fed. Cir. 2011). It is not necessary that the direct infringer be the originating source of the component parts; it need only “assemble the infringing components together such that the combination is infringing.” *Garrett v. TP\_Link Research*, 2020 WL 6873419 at \* 6 (N.D. Cal. 2020) (citing *Lifetime Indus., Inc. v. Trim-Lok, Inc.*, 869 F.3d 1372, 1378 (Fed. Cir. 2017)); *see also Lone Star Tech. Innov. v. ASUSTeK Comp.*, 2020 WL 6803249 at \*3 (E.D. Tex. 2020). The arguments in Defendant’s Motion concerning alleged involvement in the infringing apparatus on the part of Amazon do not absolve Freelancer from the consequences of its own direct infringement as both a “user” and “maker” of the infringing system. At minimum, Plaintiff has made plausible allegations concerning direct infringement. To the extent fact issues remain as to the relationship between Defendant and any third parties involved in the assembly and control of the infringing system, such will be explored and established via discovery and, if discovery reveals the need to add additional infringers to the allegations, Plaintiff will move to do so. Further on this point, Defendant suggests there is no “link” between Freelancer and Amazon, yet

Figure 1 of the First Amended Complaint plainly suggests otherwise. *See* Dkt. 15 at ¶ 41 and Fig. 1 (indicating Amazon Technologies as the ISP of record for the Freelancer website).

Further, Defendant complains that the screenshots provided in the First Amended Complaint are inadequately explained, and are therefore improper and confusing. Defendant's arguments are unavailing, given that each of the "screenshots" are identified and their respective relevance described in the body of the First Amended Complaint. *See* Dkt. 15 at ¶ 41 (explaining the significance of Figure 1). As for Figures 2-6, they are specifically included as support for the allegations relating to the existence and identity of the infringing components. *See id.* at ¶ 42. Likewise, Figure 7 in the First Amended Complaint is specifically identified as illustrating the fact that an infringing "memory device" necessarily exists, and the manner in which users are able to interact with it, as well as to support the allegations in paragraphs 44 and 45. *See id.* at ¶ 43-45. With respect to Figure 8, it is specifically cited in support of the allegations in paragraph 45. *See id.* at ¶ 45. Further, Figure 9 is included to illustrate the fact that messages are generated and transmitted in real-time. *See id.* at ¶ 47. Still further, Figures 10 and 11 are included specifically to illustrate the fact that the infringing apparatus stores "review" data, as well as "verification" data. *See id.* at ¶ 48-49. In view of the plain allegations of the First Amended Complaint, the arguments advanced by Defendant are without merit.

Finally, Defendant complains of the purported absence of any allegations as to each and every element of the Asserted Claims. More specifically, Defendant alleges that there are literally no allegations as to the following, all of which relate to the infringing "processing device": (a) "a processing device for processing information regarding the job search request upon a detection of an occurrence of a searching event"; (b) "the processing device is programmed to detect the occurrence of the searching event"; (c) "the processing device utilizes



information regarding the at least one of a job opening, ... stored in the memory device”; and (d) “the processing device generates a message containing information regarding at least one of a job opening, ... wherein the message is responsive to the job search request...” *See* Dkt. 19 at 12-12. Defendant is, again, incorrect, and seeks to raise the pleading standard bar far beyond that which is required to plausibly state a claim for relief. In any event, the First Amended Complaint does set forth each of the mentioned elements, along with screenshots giving rise to the plausible inference of infringement. *See* Dkt. 15 at ¶¶ 43-49, and specifically ¶ 46 (explaining “searching events” as when a user “Posts a Project”); ¶ 47 (explaining the “message” as messages concerning the Posted Project delivered to the relevant contractors/service providers).

Defendant lodges many of the same complaints with respect to Count II of the First Amended Complaint. *See* Dkt. 19 at 14-16. For the same reasons as presented above, Defendant’s complains have no merit and should be rejected.

## **II. Allegations of Willfulness are More Than Sufficient**

Defendant’s Motion contends that Plaintiff’s allegations of willful infringement should be dismissed because it “only” alleges notice based upon service of the Complaint. *See* Dkt. 19 at 17 (citing “Complaint at ¶¶ 38, 57”). But this is not accurate. Plaintiff’s Operative First Amended Complaint (Dkt. 15) provides an allegation of willful infringement by Defendants of both Counts I and II based on Defendant’s practice of not respecting U.S. patents rights before bringing its Accused Instrumentalities to citizens in the United States. *See* Dkt. 15 at ¶¶ 54 and 71 (“On information and belief, Defendant has a policy or practice of not reviewing the patents of others. Further on information and belief, Defendant instructs its employees to not review the patents of others for clearance or to assess infringement thereof. As such, Defendant has been

willfully blind to the patent rights of Plaintiff”). As such, Defendant’s representation of the Operative Complaint, the FAC (Dkt. 15), is not accurate as it ignores the additional allegations of Paragraphs 54 and 71. *See* Dkt. 15.

Additionally, Defendant incorrectly argues that because it waived service of process, it purportedly cannot be on notice by the service of the Original Complaint. Waiving formal service for a generous extension of the time to a file a response is equivalent to being formally served as both provide actual notice of the infringement. Defendant’s technical argument overlooks that actual knowledge imparted to Defendant by agreeing to accept service by waiving formal service. Indeed, Defendant cites to zero authority for its untenable position, and the Waiver of Service specifically precludes Defendant from raising objections (as it is now attempting to do) to the absence of formal service. *See* Dkt. 7 (“I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court’s jurisdiction, and the venue of the action, but that ***I waive any objections to the absence of a summons or of service***”) (emphasis added).

Defendant further argues that the allegations in the First Amended Complaint relating to Defendant’s pre-suit conduct forming the basis of Defendant’s willful infringement should be struck. It is Defendant’s position that the allegations in the First Amended Complaint are insufficient to state a claim for willful blindness.

At the pleading stage, the exact same near-verbatim language as is set forth in the Complaint in this case has been expressly and recently approved by Judge Gilstrap. *See, e.g., Motiva Patents, LLC v. Sony Corp.*, 408 F.Supp.3d 819, 825, 833-34 (E.D. Tex. 2019) (denying Motion to Dismiss; expressly approving the following language as sufficient to state a claim of willful blindness: “Defendant has a policy or practice of not reviewing the patents of others

(including instructing its employees to not review the patents of others), and thus has been willfully blind of [Plaintiff’s] patent rights”). Judge Gilstrap went on to note that: “*Twombly* requires, in the context of willful blindness, no more than an allegation that a specific, willfully-blind policy exists.” *Id.* at 834. Here, of course, Plaintiff has specifically plead: “On information and belief, Defendant has a policy or practice of not reviewing the patents of others. Further on information and belief, Defendant instructs its employees to not review the patents of others for clearance or to assess infringement thereof. As such, Defendant has been willfully blind to the patent rights of Plaintiff.” *See* Dkt. 15 at ¶¶ 54, 71.

Again: Defendants’ Motion should be denied, as Plaintiff’s allegations are specific and sufficient. *Motiva*, 408 F.Supp.3d at 834 (“In sum, the Court concludes that the requirements of *Twombly* are met when a plaintiff identifies the existence of a specific policy of willful blindness or specific acts of willfully blind conduct. Either factual allegation – the existence of the policy or its implementation in the form of specific acts of willfully blind conduct – is sufficient to state a claim at the pleading stage. Taken together, the combination of allegations more than suffices to ‘cross the federal court’s threshold.’”).

Finally, Defendant complains that allegations of post-suit willfulness are improper and should be dismissed. *See* Dkt. 19 at 17-18. The Court in the Eastern District of Texas has expressly found that post-suit conduct can give rise to willfulness, as long as the Complaint alleges such post-suit knowledge, and as long as there is an allegation of continued post-suit infringing activities. *See KIBP LLC v. Samsung Elec. Co., Ltd.*, 2020 WL 1500062 at \*4-5 (E.D. Tex. Mar. 9, 2020); *Plano Encryption Technologies, LLC v. Alkami Technology, Inc.*, 2017 WL 8727249 at \*6 (E.D. Tex. 2017). Plaintiff has made such allegations, and Defendant’s Motion should be denied.

Dated: February 18, 2021

*/s/ Randall Garteiser*

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**ATTORNEYS FOR  
PLAINTIFF GREATGIGZ**

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**GREATGIGZ SOLUTIONS, LLC,**

**Plaintiff**

**v.**

**FREELANCER LIMITED,**

**Defendant**

**Case No. 6:20-cv-00738-ADA**

**JURY TRIAL DEMANDED**

**[PROPOSED] AGREED SCHEDULING ORDER**

Deadline	Item
Served February 1, 2021	Plaintiff serves preliminary <sup>1</sup> infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (i.e. the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
February 22, 2021	Deadline for Motions to Transfer.
March 29, 2021	Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s), and (3) summary, annual sales information for the accused product(s) for the two years preceding the filing of the Complaint, unless the parties agree to some other timeframe.
April 12, 2021	Parties exchange claim terms for construction.
April 26, 2021	Parties exchange proposed claim constructions.
May 3, 2021	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any

<sup>1</sup> The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served, and should do so seasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

Deadline	Item
	expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. <sup>2</sup> With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
May 10, 2021	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
May 20, 2021	Plaintiff files Opening claim construction brief, including any arguments that any claim terms are not indefinite.
June 10, 2021	Defendant files Responsive claim construction brief.
June 24, 2021	Plaintiff files Reply claim construction brief.
July 8, 2021	Defendant files a Sur-Reply claim construction brief.
July 13, 2021	Parties submit Joint Claim Construction Statement. See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
July 26, 2021	Parties submit optional technical tutorials to the Court and technical adviser (if appointed). <sup>3</sup>
August 4, 2021	<i>Markman</i> Hearing at [9:00 a.m. or 1:30 p.m.]
August 5, 2021	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
September 15, 2021	Deadline to add parties.
September 29, 2021	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is

<sup>2</sup> Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

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November 24, 2021	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
January 19, 2022	Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues.
February 9, 2022	Close of Fact Discovery.
February 16, 2022	Opening Expert Reports.
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April 6, 2022	Close of Expert Discovery.
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April 25, 2022	Dispositive motion deadline and Daubert motion deadline.  See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
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June 1, 2022	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
June 8, 2022	File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Kristie Davis at <a href="mailto:kmdaviscsr@yahoo.com">kmdaviscsr@yahoo.com</a>  Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
June 17, 2022	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
June 22, 2022 <sup>4</sup>	Final Pretrial Conference. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing.
July 18, 2022	Jury Selection/Trial. The Court expects to set these dates at the conclusion of the <i>Markman</i> Hearing.

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<sup>4</sup> If the actual trial date materially differs from the Court's default schedule, the Court will consider reasonable amendments to the case schedule post-Markman that are consistent with the Court's default deadlines in light of the actual trial date.

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May 25, 2022	Serve objections to rebuttal disclosures and File Motions <i>in limine</i> .
June 1, 2022	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
June 8, 2022	File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Kristie Davis at <a href="mailto:kmdaviscsr@yahoo.com">kmdaviscsr@yahoo.com</a>  Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
June 17, 2022	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
June 22, 2022 <sup>4</sup>	Final Pretrial Conference. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing.
July 18, 2022	Jury Selection/Trial. The Court expects to set these dates at the conclusion of the <i>Markman</i> Hearing.

Signed on February 23, 2021.

  
 ALAN D ALBRIGHT  
 UNITED STATES DISTRICT JUDGE

<sup>4</sup> If the actual trial date materially differs from the Court's default schedule, the Court will consider reasonable amendments to the case schedule post-Markman that are consistent with the Court's default deadlines in light of the actual trial date.





Defendant Freelancer Limited (“Defendant” or “Freelancer”) respectfully submits this reply in support of Freelancer’s motion to dismiss the amended complaint or, in the alternative, for a more definite statement (ECF No. 19 (“Motion”)).

Plaintiff Greatgigz Solutions, LLC’s (“Plaintiff” or “Greatgigz”) opposition brief (ECF No. 21 (“Opposition”)) does not explain or justify the lack of sufficient pleading in a manner that should lead to denial of the motion. Rather, Greatgigz’s inability to point to adequate facts or explain the contradictory allegations in its amended complaint should lead this Court to a conclusion that the amended complaint should be dismissed.

And the dismissal should be with prejudice, because Greatgigz did not request leave to amend.

Finally, Greatgigz did not oppose Freelancer’s motion for a more definite statement. So if any portion of the complaint survives, Freelancer respectfully requests that Greatgigz be required to provide a more definite statement as requested in the Motion.

## **I. DIRECT INFRINGEMENT**

Defendant’s opposition brief attempts incorrectly to minimize Freelancer’s motion by reducing it to a single argument: “the purported absence of specific allegations concerning the specific components within its own infringing system.” Opposition p. 2. Not so. Freelancer moved to dismiss because a complaint must provide enough *factual* allegations to lead to a *plausible* (not “possible”) inference of infringement. Here, when Greatgigz’s parroting of claim language is removed, the cupboard is bare.

And Freelancer did not limit its motion to identifying inadequacies in pleading with respect to components (e.g., memory, processor, transmitter), but rather also noted that Greatgigz’s complaint lacks facts regarding the functional elements of the claim, i.e., what must be done by those components.

Using the example of complaint ¶ 46 that was highlighted in the motion to dismiss, when the parroted claim language and “information and belief” are stricken and remaining allegations highlighted, the paragraph is as follows:

On information and belief, the Freelancer apparatus is programmed to detect the occurrence of such searching events in real-time. Further on information and belief, the processing device of the Freelancer apparatus is programmed to use the aforementioned stored information regarding the at least one of a job opening, position, assignment, contract, and/or project (i.e., the “Project Posting”) to generate a message containing information regarding such Project Posting. Such message is generated in response to the aforementioned job search request (see ¶ 45) in real-time upon the occurrence of the searching event (see ¶ 44).

Motion p. 13 (citing Complaint ¶46). We are left only with conclusory allegations that the Greatgigz-concocted “Freelancer apparatus” is “programmed” and with a few references to the “Project Posting” and paragraphs 44 and 45. No facts are alleged beyond an allegation that the “Project Posting” is the “stored information.” The above paragraph is exemplary of the other paragraphs related to the functional requirements of the asserted claims. The complaint remains bare as to the four requirements of the processing device that were specifically identified in the Motion (pp. 12-13) and many other functional requirements.

Thus, contrary to Greatgigz’s position, it is not just the memory, processor, and transmitter for which facts are missing;<sup>1</sup> Greatgigz failed to plead facts related to the multiple functional requirements of those items.

The Federal Circuit has recently confirmed that such pleadings are inadequate. *Artrip v. Ball Corp.*, 735 F. App’x 708, 714-15 (Fed. Cir. 2018) (considering allegations that did not “fairly identify the accused machines” and finding the complaint “insufficient; under any pleading standard...”); *Power Analytics Corp. v. Operation Tech., Inc.*, 820 F. App’x 1005, 1020 (Fed. Cir. 2020) (agreeing with dismissal because the complaint “fails to allege sufficient facts to ‘nudge its claim across the line from conceivable to plausible’”).

Rather, the pleading must include sufficient facts to make a plausible inference that each element of the patent claim is present in an accused product. *De La Vega v. Microsoft Corp.*, No. W-19-CV-00612-ADA, 2020 U.S. Dist. LEXIS 116081, at \*16-17 (W.D. Tex. Feb. 11, 2020) (“Because

<sup>1</sup> Notably, in its Opposition, Greatgigz points to alleged memory, processing devices, and transmitters owned and operated by third-party Amazon, not Freelancer. See Opposition p. 2 (referring, e.g., to “Amazon Elasticache (processing device/receiver/transmitter)” and other services of third-party Amazon that have not been linked to Freelancer).

Plaintiff does not include even a short written description of how the accused instrumentalities meet the ‘coupling’ limitation, his complaint fails to state a claim upon which relief can be granted”).

Beyond the missing claim elements, Greatgiz’s opposition fails to rectify or explain the many inconsistencies noted in the Motion. Greatgiz does not provide facts explaining why it alleges that the accused “Freelancer apparatus” includes two mobile applications (*see* Motion p. 9) when Freelancer only offers a single mobile application. Nor does Greatgiz explain how those mobile applications form part of the infringing device when they are software, not devices, and would need to be installed on user devices to be used. (There is no allegation of joint infringement.) Also, Freelancer is based in Australia, making it unlikely that Greatgiz alleges that somehow use of an application on a device by a Freelancer employee in Australia would implicate the United States patent laws.

Moreover, Greatgiz’s opposition does nothing to tie various third-party Amazon services to Freelancer. Greatgiz names several Amazon services (Opposition p. 2 bottom), but does not show how the complaint or Greatgiz would link any of those services to Freelancer. It bears repeating: those are services of a third-party, Amazon, not defendant Freelancer. Even if these services were somehow related by facts in the complaint to Freelancer, they appear to be unrelated to the claim elements. *See, e.g.*, Complaint ¶41 at Figure 4 (Cloudwatch described as monitoring website operational health), at Figure 5 (Kinesis described as monitoring streaming data to get insights), etc. As the Motion noted, Greatgiz’s complaint did not “even attempt[] to connect the dots between those Amazon services and Freelancer...” Motion p. 10. Again, there is no allegation of joint infringement.<sup>2</sup>

On this same point, the Opposition argues that “it is beyond dispute that the Defendant here has made, owns, and uses the code on which the entire infringing system operates.” Opposition p. 4. This was not alleged in the complaint. And, actually, Freelancer is not part of

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<sup>2</sup> Greatgiz states that its screenshot indicating that Amazon is the internet service provider (ISP) for Freelancer “suggests” use of a plethora of Amazon services. Opposition pp. 4-5. Actually, there is no such suggestion. The only relevant supported inference is that Amazon is the ISP. But to stretch this to even one additional Amazon service, let alone five disparate services identified by Greatgiz (Opposition p. 2), is not a supported inference.

third-party Amazon's corporate family. Freelancer is a publicly-traded company in Australia. The referenced software code on the *Amazon* devices that underlies *Amazon* services is likely made, owned, and used by third-party *Amazon* (or its subsidiaries), not Freelancer. Regardless, this allegation was not in the complaint, so it is not a basis to deny the motion.

Finally, Greatgizg does not explain the inconsistency in alleging (1) that the devices are owned and operated by Amazon, (2) that "Each element of the infringing apparatus is, on information and belief, owned and controlled by [Freelancer] in the United States...", and (3) that Freelancer "has no primary place of business in the United States." Motion p. 10 (citing complaint paragraphs). Item 3 is true. Item 1 is true. Item 2 is unsupported by any factual allegations, and is entirely inconsistent with items 1 and 3.

This is a case where the plaintiff, Greatgizg, has alleged direct infringement of apparatus claims. (ECF No. 15 ("Complaint") ¶¶ 40, 59). There is no allegation of induced infringement, nor of contributory infringement.<sup>3</sup> Thus, the apparatus must be in the United States. And the acts of infringement (making, using, selling, offering, importing) related to that *apparatus* must occur in the United States. And because there is no allegation of joint infringement, those acts of infringement related to the *apparatus* must be performed solely by Freelancer, not by customers, and not by third-party Amazon. However, the Complaint is bare of factual allegations regarding the apparatus. And the Complaint's allegations about imaginary software applications, acts and services of third-party Amazon that are not tied to Freelancer, and allegations that Freelancer both is within and without the United States are so contradictory that they are not plausible.

This Court should dismiss the direct infringement claim. It should dismiss with prejudice, because Greatgizg did not request leave to amend the complaint. *See generally* Opposition.

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<sup>3</sup> The Opposition (p. 3) suggests that use in various parts of the world by "over 40 Million individuals" makes Freelancer "a directly infringing 'user'." Freelancer notes that use by others is not use by Freelancer; direct infringement could only arise from Freelancer's actions, not actions of others. And use outside of the United States by anyone does not directly infringe a United States patent.

## II. WILLFUL INFRINGEMENT

Greatgiz's arguments regarding its pleading of willful infringement miss the mark. Freelancer presented two separate issues, i.e., pre-suit willfulness and post-filing willfulness for the Court's consideration, and will address Greatgiz's response to each.

### 1. Alleged Willful Blindness – Either Pre-Suit or Post-Filing

Greatgiz argues incorrectly that its insufficient allegations of willful blindness should be permitted because Judge Gilstrap permitted a pleading with allegedly “the exact same near-verbatim language.” Opposition p. 8. There are two problems with relying on Judge Gilstrap's well-reasoned opinion in *Motiva*. *Motiva Patents, LLC v. Sony Corp.*, 408 F. Supp. 3d 819, 833-34 (E.D. Tex. 2019).

First, while Judge Gilstrap's opinion is well-reasoned, it is apparent that Judge Gilstrap did not consider the first prong of the test set forth by the Supreme Court in *Glob.-Tech v. SEB*, specifically, “the defendant must subjectively believe that there is a high probability that a fact exists.” *Glob.-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 769 (2011). This is understandable because neither party raised nor briefed the first prong to Judge Gilstrap.

Defendant did not identify the *Glob.-Tech* test or raise the issue of pleading the subjective belief. See ECF No. 18 at pp. 16-17 in case no. 9:18-cv-00179-JRG-KFG (E.D. Tex. Dec. 17, 2018). And Plaintiff did not cite *Glob.-Tech* nor raise the issue of the subjective belief. ECF No. 27 at pp. 6-8 in case no. 9:18-cv-00180-JRG-KFG (E.D. Tex. Dec. 21, 2018).<sup>4</sup>

Thus, the issue raised by Freelancer, i.e., lack of pleading as to the first prong of the *Glob.-Tech* test was not addressed by Judge Gilstrap.

Greatgiz did not plead anything regarding Freelancer's subjective beliefs. Thus, willful infringement based on willful blindness is not adequately pled.

Second, while Greatgiz alleges that its pleading is “the exact same near-verbatim language” to language that Judge Gilstrap approved, this is not the case. There is an important difference. In *Motiva*, Judge Gilstrap considered a pleading that “Defendant has a policy or practice ...” *Motiva*,

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<sup>4</sup> Note: Because cases were related, the motion and opposition were filed using different case numbers.

408 F. Supp. 3d at 825. In this lawsuit, however, Greatgiz pleads “On information and belief, Defendant has a policy or practice...” Motion pp. 18-19 (citing Complaint ¶¶ 54, 71).

The crutch of “information and belief” makes a significant difference here with respect to the second prong of the *Glob.-Tech* test, i.e., “the defendant must take deliberate actions to avoid learning...” Motion p. 19 (citing *Glob.-Tech*). Pleading “information and belief” with respect to the only allegation of willful blindness is not sufficient.

The Federal Circuit recently rejected an “information and belief” pleading that “fail[ed] to allege sufficient facts to ‘nudge its claim across the line from conceivable to plausible...’” *Power Analytics Corp. v. Operation Tech., Inc.*, 820 F. App'x 1005, 1020 (Fed. Cir. 2020). And other district courts have properly rejected pleadings of willful infringement relying upon “information and belief.” See, e.g., *Regents of the Univ. of Minn. v. AT&T Mobility LLC*, 135 F. Supp. 3d 1000, 1012 (D. Minn. 2015) (dismissing willful blindness allegation based “on information and belief” and stating, “The University offers no specific allegations as to what deliberate action the Defendants have taken... While the University need not go into extensive detail about the particular circumstances of each action in order to survive a motion to dismiss, they must point to some type of action on the part of the Defendants from which a jury could conclude the Defendants engaged in willful blindness.”). This Court should reach the same result.

As pointed out in the Motion (p. 19), Greatgiz’s pleading are verbatim copies of allegations made in another Greatgiz complaint against another defendant, demonstrating they are generic, not specific to Freelancer. And Greatgiz allegations merely parrot the legal standard without identifying any factual specifics about an alleged, unidentified policy, practice or instruction to ignore patents.

Thus, the willful blindness allegations should be dismissed as insufficient under both prongs of the *Glob.-Tech* test. Greatgiz did not plead anything related to subjective belief. And Greatgiz did not plead any *facts* related to the alleged deliberate action to avoid learning of patents.



## 2. Other Pre-Suit Allegations Are Absent

Greatgigz did not allege pre-suit willfulness apart from willful blindness. Thus, the pre-suit willful infringement pleading stands or falls solely on the Court's determination regarding willful blindness. Thus, this Court's decision in *Parity Networks v. Cisco* (full citation at Motion p. 17) is directly on point and strongly supports dismissal.

## 3. Other Post-Filing Allegations Are Insufficient

Greatgigz's allegations and opposition regarding post-filing conduct suggest nothing more than a garden-variety patent infringement case. Thus, this Court's precedents in, for example, *Flash-Control v. Intel* and *VLSI v. Intel* (full citations at Motion p. 18) are directly on point and strongly support dismissal.

Freelancer also notes that Greatgigz's argument about waiver of service of the complaint wholly misses the mark. *See* Opposition p. 7. Freelancer did not argue that Freelancer lacked notice of the asserted patents after Freelancer waived service. *See* Motion to Dismiss pp. 6, 17. Freelancer's point was that Greatgigz drafted a generic complaint that parrots various standards without applying *facts* that are relevant. Freelancer was never served with the original complaint due to waiving service, but Greatgigz nevertheless pled that notice occurred after service of the original complaint. *See* Motion p. 17 (citing complaint ¶¶ 38, 57).

Greatgigz's generic allegations of willful infringement lack factual support and suggest nothing more than a garden-variety case. The post-filing willful infringement allegations should be dismissed with prejudice.

## III. MORE DEFINITE STATEMENT

Greatgigz did not request leave to amend its already-amended complaint. *See generally* Opposition. Thus, to the extent that the Court dismisses the complaint, it should be dismissed with prejudice and without leave to amend.

However, if the Court does not dismiss the complaint, Freelancer’s motion for a more definite statement (Motion pp. 20-21) should be granted. Greatgigz did not oppose this motion. And the deficiencies in the pleadings meet the standards of *Estech v. Regions* (full citation at Motion p. 20). Thus, if the complaint is not dismissed, a more definite statement should be required.

Respectfully submitted,

Dated: March 4, 2021

By: /s/ Andrew T. Oliver  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record who have consented to electronic service.

/s/ Andrew T. Oliver  
Andrew T. Oliver

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

GREATGIGZ SOLUTIONS, LLC,

Plaintiff,

v.

FREELANCER LIMITED,

Defendant.

Case No. 6:20-cv-00738-ADA

**JURY TRIAL DEMANDED**

**DEFENDANT FREELANCER LIMITED'S MOTION TO STAY PENDING  
RESOLUTION OF MOTION TO DISMISS**

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Defendant Freelancer Limited (“Defendant” or “Freelancer”) moves this court for a stay of proceedings pending resolution of the motion to dismiss the amended complaint (ECF No. 19), which is fully briefed and ready for decision. A stay will allow this Court to decide this dispositive motion before engaging in further proceedings such as claim construction and validity considerations raised by Freelancer, thereby promoting judicial efficiency. Further, Plaintiff Greatgigz Solutions, LLC (“Plaintiff” or “Greatgigz”) will suffer no prejudice from a short stay. With the claim construction discovery opening, Markman briefing beginning soon, and the Markman hearing scheduled for August 4, 2021, this case should be stayed until the Court determines whether the case is permitted to proceed.

Counsel for Defendant (Messrs. Oliver and Ting) met telephonically with counsel for Plaintiff (Mr. Fasone), on March 24, to discuss the contents of this motion and seek consent to a stay. The parties could not reach agreement and Plaintiff indicated that it would oppose this motion.

## **I. BACKGROUND**

This is a patent infringement case bought by Greatgigz on August 14, 2020 (ECF No. 1). Freelancer waived service (ECF No. 7) and promptly moved to dismiss under Rule 12(b)(6) on November 8, 2020 (ECF No. 11). Greatgigz mooted that motion by filing an amended complaint on November 23, 2020. (ECF No. 16). After a single extension request, Freelancer filed a motion to dismiss the amended complaint on January 21, 2021. (ECF No. 19). That motion has been fully-briefed and ready for decision since Freelancer filed its Reply brief on March 4, 2021. (ECF No. 25). The motion is dispositive because (a) Greatgigz already amended its complaint after facing the initial motion to dismiss, and (b) Greatgigz did not request leave to amend with respect to the pending motion to dismiss.

This Court notified the parties by email regarding dates set for a Markman hearing (August 4, 2021) and an estimated trial date (July 18, 2022). *See* Exhibit A to this motion. Thereafter, based

on those dates and the Court’s scheduling guidance,<sup>1</sup> the parties submitted a Proposed Agreed Scheduling Order (ECF No. 22) which was adopted by the Court on February 23, 2021. ECF No. 23. The Scheduling Order directs Freelancer to serve significant invalidity contentions and produce proprietary and highly sensitive technical and financial information on March 29, 2021. ECF No. 23 p. 2. It further directs Freelancer to engage in proceedings on the merits of this matter including exchanging proposed constructions of claim terms and discovery in April and May 2021. *Id.* And a significant briefing schedule is set for May through July 2021. *Id.* at p. 3. The Markman Hearing is set for August 4, 2021. *Id.* Further deadlines follow. *Id.*

The schedule imposed on Freelancer by the Court’s setting of hearing and trial dates as well as the Court’s scheduling guidance impose significant burdens on Freelancer before any decision on whether the Complaint is sufficient to even survive a motion to dismiss for failure to state a claim. If the Complaint fails to state a claim, Freelancer should not be subjected to the significant burdens of engaging in discovery and claim construction proceedings. Nor should Greatgigz.

Thus, staying the case now will be beneficial to both parties. Freelancer requested that Greatgigz agree to the stay and Greatgigz declined.

## II. THE CASE SHOULD BE STAYED PENDING A DECISION ON THE MOTION TO DISMISS

“The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

The Supreme Court has stated that bare allegations of wrongdoing are insufficient to require a defendant to undertake financial burdens and risks to further a plaintiff’s case. *Oppenheimer Fund v.*

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<sup>1</sup> See “Judge Albright – Scheduling Date Calculator Tool – v3.2.xlsx” at <<https://www.txwd.uscourts.gov/wp-content/uploads/Standing%20Orders/Waco/Albright/Judge%20Albright%20-%20Scheduling%20Date%20Calculator%20Tool%20-%20v3.2.xlsx>> and “Proposed Scheduling Order for U.S. District Judge Albright.pdf” at <<https://www.txwd.uscourts.gov/wp-content/uploads/Standing%20Orders/Waco/Albright/Proposed%20Scheduling%20Order%20for%20U.S.%20District%20Judge%20Albright.pdf>>.

*Sanders*, 437 U.S. 340, 363, 98 S. Ct. 2380, 2395 (1978) (“A bare allegation of wrongdoing, whether by breach of fiduciary duty or otherwise, is not a fair reason for requiring a defendant to undertake financial burdens and risks to further a plaintiff’s case.”). Building on this, various circuit courts have required a “threshold” determination that a claim is not frivolous before requiring a defendant to take on the burdens of litigation, including discovery. See, e.g., *Bruno & Stillman, Inc. v. Globe Newspaper Co.*, 633 F.2d 583, 597 (1st Cir. 1980) (“As a threshold matter, the court should be satisfied that a claim is not frivolous, a pretense for using discovery powers in a fishing expedition.”); *MacKnight v. Leonard Morse Hosp.*, 828 F.2d 48, 52 (1st Cir. 1987) (“[I]t was not asking too much to require plaintiff to disclose some relevant facts and basis for them before the requested discovery would be allowed. See also 4 Moore’s Federal Practice para. 26.56[1] at 26-95 n.3 (‘discovery cannot be used as a vehicle for discovering a right of action’); *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 726 F.2d 1150, 1161 (7th Cir. 1984) (“If there is other discovery that a plaintiff must complete in order to able to resist a motion by the defendant for summary judgment, and thus a significant probability that his case will fail regardless of what the internal files he is seeking may show, the district judge has the power under Rule 26(d) to require the plaintiff to complete the other, nonsensitive discovery first. See 8 Wright, Miller & Cooper, Federal Practice and Procedure §§ 2040, 2047 (1976). And in an appropriate case he has the duty. ‘As a threshold matter, the court should be satisfied that a claim is not frivolous, a pretense for using discovery powers in a fishing expedition.’”).

The Federal Circuit has recognized the importance of staying cases during the pendency of motions that will remove cases from a court’s jurisdiction. For example, staying during the pendency of transfer motions provides a means of upholding 28 U.S.C. § 1404(a)’s intent to “prevent the waste ‘of time, energy, and money’ and protect litigants, witnesses and the public against unnecessary inconvenience and expense....” *In re Google Inc.*, 2015 WL 5294800 at \*1 (Fed. Cir. 2015) (granting mandamus and directing district court to rule on defendant’s motion to transfer within 30 days and to stay all proceedings pending completion of transfer matter); see also *In re*

*Nintendo Co.*, 544 F. App'x 934, 941 (Fed. Cir. 2013) (noting “a trial court must first address whether it is a proper and convenient venue before addressing any substantive portion of the case”).

Indeed, the Federal Circuit and Fifth Circuit have instructed that transfer motions be prioritized before other substantive issues. *See In re Horseshoe Entm't*, 337 F.3d 429, 433 (5th Cir. 2003) (“[D]isposition of that [transfer] motion should have taken a top priority in the handling of this case.”); *In re Apple Inc.*, 456 F. App'x 907, 908 (Fed. Cir. 2012) (faulting Apple for “delay” and “fail[ing] to employ any strategy to pressure the district court to act” to have the motion for transfer handled at the outset of litigation); *In re VTech Commc'ns, Inc.*, Misc. No. 909, 2010 WL 46332, at \*1 (Fed. Cir. Jan. 6, 2010) (faulting VTech for not “actively and promptly” pursuing its motion to transfer before the district court invested time on discovery and claim construction).

A stay is warranted because, as the Federal Circuit has explained, in the context of a venue transfer motion, it “fully expect[ed]” for the moving defendant to file “a motion to stay proceedings pending disposition of the transfer motion” and the district court “to act on those motions before proceeding to any motion on the merits of the action.” *In re Fusion-IO*, 489 F. App'x 465, 466 (Fed. Cir. 2012).

This rationale is even more true in the context of a dispositive motion to dismiss as opposed to a transfer motion that is not dispositive. In the case of a transfer motion, some amount of the discovery and other work may be expected to be useful regardless of the outcome of the motion. However, in the case of a dispositive motion to dismiss, none of the work will be useful if the case is dismissed with prejudice. All such work by a wrongly accused defendant will be useless, as will all the work by the Plaintiff.

The Fifth Circuit has endorsed cutting off discovery where the discovery “will not be likely to produce facts [needed] to withstand” dispositive motions. *Netto v. AMTRAK*, 863 F.2d 1210, 1216 (5th Cir. 1989) (“[A] plaintiff's entitlement to discovery before a ruling on a motion for summary judgment is not unlimited and may be cut off when the record shows that the requested discovery will not be likely to produce facts he needs to withstand a summary judgment motion.”); *see also Corwin v. Marney, Orton Inv.*, 843 F.2d 194, 200 (5th Cir. 1988) (“[A] trial court may properly



exercise its discretion to stay discovery pending a decision on a dispositive motion.”). Here, the dispositive motion is not a summary judgment motion, but the same rationale is applicable. The required discovery, including claim construction efforts, will not be relevant as to whether the Plaintiff pled adequate facts in the complaint. And because this motion seeks a stay rather than a termination or denial of discovery, it should be more freely granted. *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 706 F.2d 1488, 1493 (7th Cir. 1983) (“an order merely postponing a particular discovery request should be granted more freely than an order denying the request altogether.”).

In this District, courts typically consider three factors in determining whether a stay is warranted: (1) any potential prejudice to the non-moving party; (2) the hardship and inequity to the moving party if the action is not stayed; and (3) the judicial resources saved by avoiding duplicative litigation. *YETI Coolers, LLC v. Home Depot U.S.A., Inc.*, 2018 WL 2122868, at \*1 (W.D. Tex. Jan. 8, 2018); *Sparling v. Doyle*, 2014 WL 12489985, at \*3 (W.D. Tex. Mar. 3, 2014) (using the same three-factor test and granting a stay pending consideration of a motion to transfer). Here, all three factors favor a stay.

#### **A. Factor One: A Stay Will Not Prejudice Greatgigz**

Greatgigz will not suffer any prejudice if the case is stayed. First, Freelancer seeks a stay of a limited duration—only until the Court rules on Freelancer’s fully briefed dispositive motion to dismiss. Here, the motion to dismiss is strong and meritorious. *See* ECF No. 19. It is not limited to an argument that a single claim limitation is missing from the facts alleged in the Complaint. Instead, the motion to dismiss is directed to many claim limitations for which no facts have been pled. *See generally* ECF No. 19. And the motion to dismiss is further bolstered by arguments that even where Greatgigz alleges that facts are present, those purported facts are often contradictory and generally directed to a third party’s device(s). *Id.* at pp. 8-20. There can be no prejudice in a stay pending resolution of a motion to dismiss an insufficient Complaint where a plaintiff (1) has already amended, (2) did not request leave to further amend, and (3) has not pled facts adequate to infer that a claim for relief is stated.

Further, Greatgiz cannot claim prejudice as to potential remedies; Greatgiz has only requested money damages, not an injunction. (See ECF No. 16). The asserted patents both expire no later than 2021 (*see* ECF Nos. 13-1, 13-2),<sup>2</sup> meaning that no injunction could arise after the current trial date set for 2022. In fact, Freelancer has been an operating company for over a decade, and Greatgiz waited 17 years to file suit after issuance of U.S. Patent No. 6,662,194 and 11 years to file suit after issuance of U.S. Patent No. 7,490,086. *See NFC Tech. LLC v. HTC Am., Inc.*, 2015 WL 1069111, at \*2 (E.D. Tex. Mar. 11, 2015) (explaining that inherent delay associated with a stay, standing alone, does not establish undue prejudice).

Second, a patentee that can “be adequately compensated through a damages remedy” cannot show undue prejudice from a stay, and here Greatgiz seeks only monetary relief. (ECF No. 1). *See NFC Tech.*, 2015 WL 1069111, at \*5 (citing *VirtualAgility Inc. v. Salesforce.com, Inc.*, 759 F.3d 1307, 1318 (Fed. Cir. 2014)). And prejudgment interest can be awarded to compensate for any delay in the payment of alleged damages. *See Raytheon Co. v. Samsung Elecs. Co.*, 2016 WL 11639659, at \*1 (E.D. Tex. Feb. 22, 2016).

## **B. Factor Two: Freelancer Will Suffer Hardship Absent a Stay**

Moving forward now with discovery and claim construction in this case risks a waste of judicial and party resources that the Federal Circuit warned against in *In re Google*. *See In re Google Inc.*, 2015 WL 5294800 at \*1-2. Indeed, more harshly than the situation faced in *Google*, if this case is dismissed, all such work will be lost. As noted above, the schedule calls for significant discovery obligations including both production of sensitive information and engagement in the claim construction process through the next several months leading to the August claim construction hearing.

Conversely, staying the case would eliminate any risk of undue hardship to Freelancer.

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<sup>2</sup> A patent’s term is 20 years from the priority date. 35 U.S.C. §154(a)(2). The covers of the patents show a priority date of July 7, 2000 and extensions (under 35 U.S.C. §154(b)) of 387 and 541 days respectively, meaning that the expirations can be no later than July 7, 2020 plus either 387 or 541 days respectively.

### C. Factor Three: A Stay Will Conserve Judicial Resources

A stay pending a decision on the motion to dismiss will conserve judicial resources. The Markman proceedings will likely include tutorials about the technology and details regarding the nuances of the claims as applied by Greatgiz to Freelancer. Thus, the Markman briefing and hearing will, by its very nature, require the Court to engage in analysis of the issues presented with respect to Freelancer. While such a Markman hearing may go forward on August 4, 2021 with respect to other cases, Freelancer notes that Greatgiz has filed at least five cases<sup>3</sup> since November 2020, after Greatgiz sued Freelancer. These cases have not yet been assigned a Markman Hearing date and, presumably, for judicial resource conservation, the Markman hearing in those cases can later be combined with a hearing in this case for efficiency.

On the other hand, if the case is eventually dismissed, judicial resources will be spared by staying the case pending dismissal. Thus, regardless of the outcome of the motion to dismiss, judicial resources will be conserved by staying the case now.

### III. CONCLUSION

Allowing this case to proceed through substantive proceedings such as claim construction before ruling on Freelancer's motion to dismiss would be contrary to the Supreme Court's guidance and to Federal Circuit and Fifth Circuit guidance. Conversely, entering a stay will conserve judicial resources in case the Complaint is dismissed. Therefore, this case should be stayed so dismissal can be decided before other substantive issues are addressed.

Respectfully submitted,

Dated: March 26, 2021

By: /s/ Andrew T. Oliver  
ANDREW T. OLIVER

AMIN, TUROCY & WATSON LLP  
Andrew T. Oliver

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<sup>3</sup> Cases against Safelite Group, Inc., Robert Half International, Inc., Adecco USA, Inc., ZipRecruiter, Inc., and Postmates, Inc. are numbered 6:21-cv-228, 6:21-cv-207, 6:21-cv-208, 6:21-cv-172, and 6:20-cv-1073.

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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 26, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record who have consented to electronic service.

/s/ Andrew T. Oliver  
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## EXHIBIT A to motion to stay

**From:** Jun Zheng <Jun\_Zheng@txwd.uscourts.gov>  
**Sent:** Friday, January 22, 2021 1:14 PM  
**To:** bailey.watkins@bakerbotts.com; jeremy.taylor@bakerbotts.com; sfuller@ghiplaw.com; mark.oda@bakerbotts.com; rgarteiser@ghiplaw.com; raymort@austinlaw.com; syed.fareed@bakerbotts.com; tfasone@ghiplaw.com; wyatt@fr.com; sfuller@ghiplaw.com; mcnabnay@fr.com; rgarteiser@ghiplaw.com; rvazquez@ghiplaw.com; rbonilla@fr.com; tfasone@ghiplaw.com; Andrew Oliver; sfuller@ghiplaw.com; Michael Ting; rvazquez@ghiplaw.com; tfasone@ghiplaw.com; emily.felvey@bakerbotts.com; sfuller@ghiplaw.com; roger.fulghum@bakerbotts.com; tfasone@ghiplaw.com; emily.felvey@bakerbotts.com; sfuller@ghiplaw.com; rgarteiser@ghiplaw.com; roger.fulghum@bakerbotts.com; tfasone@ghiplaw.com  
**Cc:** TXWDml\_LawClerks\_WA\_JudgeAlbright  
**Subject:** GreatGigz Solutions cases (6-20-cv-00651; 6-20-cv-00737; 6-20-cv-00738; 6-20-cv-00934; 6-20-cv-00935)

Counsel,

Because the parties have indicated in their Case Readiness Status Reports that they do not have any pre-Markman issues or the CRSR's are overdue (the parties are directed to file the CRSR's and the Court will address any pre-Markman issues separately), the Court will not hold a CMC for these cases.

Please file a joint proposed scheduling order based on the latest OGP (version 3.2) using the following dates:

1. CMC: Deemed to have occurred on 2/8/2021
2. Markman hearing: 8/4/2021 at 9:30 PM (1.5 hours)
3. Estimated trial date: 7/18/2022

To the extent that the parties would like to move the trial date (to an earlier or later date), please feel free to raise that at the Markman hearing.

Please let me know if you have any questions. Thanks.

-Jun



**Jun Zheng**

Law Clerk to the Honorable Alan D Albright  
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**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**GREATGIGZ SOLUTIONS, LLC,**

Plaintiff

v.

**FREELANCER, LTD.,**

Defendant

**Case No. 6:20-cv-00738-ADA**

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO STAY  
PENDING RESOLUTION OF ITS MOTION TO DISMISS**





## **B. A STAY IS INAPPROPRIATE BASED ON THE ISSUES AT HAND**

A stay of the litigation would be inappropriate because Defendant's motion to dismiss raises factual and legal issues which warrant fact discovery. *See, generally*, Dkt. 19.

By way of example, Defendant's motion to dismiss chides Plaintiff for being unable, at the pleading stage, to identify with specificity the "memory device," "processing device," and "transmitter" which are obviously not subject to specific identification without fact discovery and source code review. *Id* at pages 8–12. Defendant has not yet made its source code available for examination by Plaintiff's experts.

Another example of a factual determination which weighs against a stay of the proceedings and a ruling on Defendant's motion to dismiss at this point in the litigation involves the nature of the relationship between Defendant and any third parties involved in the assembly and control of the Defendant's infringing system. *Id* at pages 15–16. Fact discovery is not scheduled to commence until August 5, 2021. The nature of the relationship between Defendant and any other infringing actors will be explored and established via fact discovery and, if discovery reveals the need to add additional infringers to the allegations, Plaintiff will then amend its complaint to do so.

## **C. PLAINTIFF HAS AN INTEREST IN TIMELY ENFORCING ITS PATENT RIGHTS**

A Plaintiff has "an interest in the timely enforcement of its patent right." *Ambato Media, LLC v. Clarion Co., Ltd.*, 2:09-cv-242-JRG, 2012 WL 194172, at \*1 (E.D. Tex. Jan 23, 2012). A stay would cause unnecessary delay and unduly prejudice Plaintiff's enforcement of its patent rights against Defendant.

Plaintiff sought redress for Defendant's infringing acts on August 14, 2020 (Dkt. 1). In an effort to promptly and efficiently address Plaintiff's request for relief, this Court entered a

Scheduling Order on February 23, 2021, set a Markman hearing date (August 5, 2021) and a trial date (July 28, 2022). *See* Dkt. 23.

The parties have already begun exchanging materials in preparation for claim construction: Plaintiff served its preliminary infringement contentions on February 1, 2021. Defendant served its preliminary invalidity contentions on March 29, 2021, and the parties will exchange claim terms for construction within three business days of the filing of this opposition - on April 19, 2021.

Accordingly, a stay of this litigation would unfairly hinder Plaintiff's right to timely enforce its patent rights against Defendant and, thus, should not be granted.

#### **D. DEFENDANT'S LITIGATION EFFICIENCY ARGUMENT RINGS HOLLOW**

Defendant requests the Court to stay this case so that it may delay the costs associated with litigation; however, its actions reveal that cost is of minimal concern. This lawsuit was filed on August 14, 2020. Since that time, Defendant has, at its own discretion, filed numerous meritless motions, including this Motion. Defendant has certainly spent tens of thousands of dollars (or more) on legal and filing fees in this matter.

Accordingly, Defendant's argument that it will face significant costs and procedural disclosure obligations absent a stay of this case pending resolution of its FRCP 12(b)(6) motion to dismiss lacks merit.

## **II. CONCLUSION**

For the reasons set forth in its Opposition, Plaintiff respectfully requests that the Court deny Defendant's motion to stay and grant Plaintiff such other and further relief to which it is entitled.

Dated: April 14, 2021

Respectfully Submitted,

/s/ M. Scott Fuller

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**ATTORNEYS FOR  
PLAINTIFF GREATGIGZ**

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

GREATGIGZ SOLUTIONS, LLC,

Plaintiff,

v.

FREELANCER LIMITED,

Defendant.

Case No. 6:20-cv-00738-ADA

**JURY TRIAL DEMANDED**

**DEFENDANT FREELANCER LIMITED'S  
REPLY IN SUPPORT OF MOTION TO STAY**

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## II. THE ISSUES AT HAND

Plaintiff argues the “issues at hand” as a factor in the stay analysis, without citing to any authority suggesting that this should be considered. It should not. But even if considered, Plaintiff’s argument demonstrates exactly why this case should be stayed until it is dismissed.

First, Plaintiff essentially admits that it cannot identify the “memory device,” “processing device,” and “transmitter” in the complaint. Opposition p. 3. This is noteworthy, because the patent claims asserted in the complaint (i.e., claim 1 of the ‘194 patent and claim 18 of the ‘086 patent)<sup>1</sup> have only three elements: a memory device; a processing device; and a transmitter. *See* ECF No. 11-1 (‘194 patent) at p. 39; ECF No. 11-2 (‘086 patent) at p. 41. That is, Plaintiff essentially admits that it filed a baseless lawsuit, and was unable to find any of the three claim elements in the accused products. This weighs in favor of a stay pending resolution of the motion to dismiss; it does not weigh against a stay.

Plaintiff compounds this problem by asserting that “Defendant has not yet made its source code available...” Opposition p. 3. Even if this assertion was true, it should be plain to Plaintiff that source code is software and that the memory, processing device, and transmitter are all hardware elements that are not found within software. Yet Plaintiff expects this Court to be fooled by an allegation that Plaintiff hopes to find such devices within software printouts.

Next, Plaintiff asserts that “factual determination[s]” within the motion to dismiss require discovery, demonstrating that Plaintiff views the complaint as a vehicle to launch an unfounded fishing expedition.<sup>2</sup> Rather, Freelancer’s pending motion to dismiss asks the Court to take all of the “plausible” fact assertions as true and then demonstrates that even with such treatment, the complaint fails to state a claim. Additionally, the Rule 12 analysis is not one of factual determinations, but rather one of taking the asserted “plausible” facts as true and determining

<sup>1</sup> *See* ECF No. 15 (amended complaint) at ¶ 40 (“Claim 1 of the ‘194 Patent ...”) and ¶ 59 (“Claim 18 of the ‘086 Patent...”).

<sup>2</sup> *See, e.g., Herndon v. CitiMortgage, Inc.*, No. SA-15-CA-690-OLG, 2015 U.S. Dist. LEXIS 188118, at \*14 (W.D. Tex. Oct. 20, 2015) (“[T]he Court is not required to permit plaintiffs to undertake a ‘fishing expedition’ in the form of limited discovery to attempt to locate facts to support their wholly speculative claim.”).

whether they support a claim. Here, they do not, as set forth in detail in the motion to dismiss. Discovery is not needed to confirm this.

Finally, Plaintiff asserts that it will amend its complaint after discovery purportedly reveals facts supporting a complaint. This argument fails on two grounds. First, Plaintiff did not request leave to amend its complaint a second time. And, second, the complaint must be based on sufficient facts to withstand a Rule 12 motion when the complaint is filed, not after discovery. Plaintiffs cannot file baseless complaints in hopes of later discovering some fact that might support a complaint.

Plaintiff essentially admits that its complaint is insufficient. This is not a factor in the stay analysis. But if it is considered, it weighs heavily in favor of a stay.

### **III. TIMELY ENFORCEMENT OF PATENT RIGHTS**

Plaintiff argues that it is entitled to timely enforcement of patent rights, while ignoring the fact (pointed out in Freelancer's motion at p. 7) that Plaintiff waited 17 years after issuance of one patent and 11 years after issuance of the second patent to file this lawsuit. And Plaintiff also ignores the case law establishing that where (as in this case) only monetary damages are sought, a slight delay in the case cannot cause prejudice. *See* Motion p. 7.

Plaintiff's arguments about the progress of this case are unrelated to the factors relevant to a stay. The fact that the parties have started to exchange contentions does not weigh against a stay, because if the case is not dismissed, then Plaintiff will be able to rely on those exchanges and move forward after the stay is lifted. On the other hand, not staying the case will cause hardship to Freelancer by requiring Freelancer to expend further time and money on a case that might never proceed due to the absolute paucity of facts pled in the complaint.

While timely enforcement of patent rights is not even one of the factors that is relevant, many courts have relied in various situations upon "the equitable principle that courts will not assist one who has 'slept on his rights.'" *See, e.g., Crown Packaging Tech., Inc. v. Rexam Bev. Can Co.*, 679 F.



Supp. 2d 512, 519 (D. Del. 2010). Here, Plaintiff slept on its rights for 17 years and 11 years and now complains of a minimal delay while the Court decides a motion to dismiss this baseless lawsuit.

This factor (raised by Plaintiff) is not relevant but would weigh in favor of a stay if it were relevant.

#### IV. LITIGATION EFFICIENCY

Plaintiff's arguments about litigation efficiency and costs miss the mark. First Plaintiff alleges that Freelancer filed "numerous meritless motions." This is far from the truth. Freelancer filed a motion to dismiss under Rule 12 (ECF No. 13), which was mooted by Plaintiff's minimally-amended complaint (ECF No. 15). So Freelancer filed a motion to dismiss the amended complaint under Rule 12 (ECF No. 19). And Freelancer filed a motion to stay other proceedings pending resolution of the motion to dismiss (ECF No. 26). The parties (primarily Plaintiff) have filed other procedural motions (e.g., pro hac vice, extensions). Thus, while the prior filings are of little weight, it is unclear why Plaintiff misleadingly alleges that Freelancer has filed "numerous" motions.

Plaintiff's lack of meaningful arguments demonstrates that a stay will conserve judicial resources. The question is not whether the stay will conserve the parties' resources, but whether the Court's resources will be conserved. Obviously, the motion to dismiss must be decided whether a stay is granted or not. And obviously, the motion for stay must be decided whether a stay is granted or not. Thus, the question is whether judicial resources will be preserved going forward. Staying this case will spare the use of the Court's resources with respect to at least claim construction, which is likely to raise different issues in this case than in other cases. And if the case eventually goes forward, it can likely be tracked with the five cases that were filed after Plaintiff sued Freelancer. *See* Motion p. 8 footnote 3. On the other hand, if the case is dismissed, no further judicial resources will be consumed, because Plaintiff did not request leave to amend the amended complaint thereby making the motion dispositive. So judicial resources are very likely to be conserved through a stay.

This factor weighs in favor of a stay.

## V. CONCLUSION

For the reasons stated in the motion and this reply, Defendant's motion to stay should be granted. Plaintiff failed to demonstrate any legal authority supporting its position or that any of the stay factors weighed in favor of Plaintiff. Rather, each of Plaintiff's arguments actually supported the need for a stay until the pending dispositive motion can be decided.

As set forth in the motion and reply, all of the factors typically considered favor a stay. As Freelancer is seeking only a brief stay, and Plaintiff seeks only monetary damages, a stay will not prejudice GreatGigz. Absent a stay, however, Freelancer will suffer hardship as it will need to further engage in time and resource-consuming claim construction activities, for a case that is likely to be dismissed. Finally, as there is a pending dispositive motion, a stay will conserve judicial resources, especially with respect to the upcoming Markman briefing and hearing. As such, Defendant's motion to stay should be granted.

Respectfully submitted,

Dated: April 21, 2021

By: /s/ Andrew T. Oliver  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 21, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record who have consented to electronic service.

/s/ Andrew T. Oliver  
Andrew T. Oliver

### Certificate of Service

I certify that, on June 9, 2021, I caused the foregoing to be served on all counsel of record via electronic mail to:

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Dated: June 9, 2021

/s/ Andrew T. Oliver

Andrew T. Oliver

*Attorney for Defendant-Petitioner*

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