

**IN THE IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

BLOCK FINANCIAL CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 02-0095-CV-W-DW
)	
YODLEE, INC.,)	
)	
Defendant.)	

ORDER

In January 2001 Plaintiff, Block Financial Corp. (“Block”), filed a complaint against Defendant, Yodlee, Inc. (“Yodlee”), alleging infringement of U.S. Patent No. 5,706,442 (the “‘442 Patent”) and U.S. Patent No. 6,131,115 (the “‘115 Patent”). Both patents describe and claim a system for on-line services using distributed objects. Block contends that Yodlee infringed both patents by making, using and selling its account aggregation system. In its answer Yodlee denied Block’s allegations of infringement and counterclaimed that the patents-in-suit are invalid and unenforceable. Specifically, Yodlee alleges that the patents-in-suit are invalid for failure to disclose the best mode and unenforceable due to inequitable conduct by Block before the United States Patent and Trademark Office (“PTO”).

For consideration by the Court are Yodlee’s motion for summary judgement that the ‘442 and ‘115 patents are invalid for failure to disclose best mode, (Doc. 78), cross-motions for summary judgment on infringement/non-infringement, (Docs. 80, 83), and cross-motions for summary judgment on unenforceability due to inequitable conduct, (Docs. 82, 85). For the

following reasons, Yodlee's motion for summary judgment of invalidity due to failure to disclose the best mode is DENIED; Yodlee's motion for summary judgment of unenforceability due to inequitable conduct is DENIED; Block's cross-motion on inequitable conduct is also DENIED; Block's motion for partial summary judgment of infringement is DENIED; and Yodlee's motion for summary judgment of non-infringement is GRANTED.

I. BACKGROUND

The '442 patent, entitled "System for on-line financial services using distributed objects" and the '115 patent, entitled "System for on-line services using distributed objects," both describe and claim a system enabling a plurality of clients to access financial information from a plurality of distributed information sources. The inventors of the patents-in-suit are William P. Anderson ("Anderson") and Jacob P. Geller ("Geller"), and the assignee on both patents is Block Financial Corporation. The '442 patent was filed on December 20, 1995, and granted on January 6, 1998. The '115 patent was filed on July 29, 1997 as a continuation of the '442 application and was granted on October 10, 2000, subject to a terminal disclaimer.

The abstract of each patent states:

A system is disclosed for accessing recent financial information from various financial services providers. The system is based on a client/server architecture so that services are accessible from a variety of presentation tools. Communications between clients and servers are accomplished using "interfaces" that group operations and attributes for various services. The system uses the TCP/IP protocol suite so financial services are available at any time and from any location.

(Block Appendix of Exhibits, Ex. A, B).

Prior to the filing of the '442 application, Geller and a technical staff employed by Block to develop the Conductor system, created a document describing the invention entitled "The

Conductor Financial Services Framework - A Block Financial Corporation White Paper” (“White Paper”). (Pl. Suggestions in Support, Ex. F (White Paper); Ex. D (Geller Deposition) at 56:16-57:3). The White Paper described the goals and design strategy for developing the invention as conceived by the inventors. The report also contained a survey of available technology that could be used to realize the described invention. Certain aspects of the system could be developed “in-house” or acquired by the purchase of “off-the-shelf” software. Ultimately, the White Paper concluded that Orbix, a CORBA-compliant middleware product developed and sold by IONA Technologies, was the optimal approach to dealing with the distributed object portion of the infrastructure. Block’s attorney used the White Paper in preparing the patent application and as a result, the patent application contained large segments of the White Paper with some minimal editing. All references to Orbix found in the original text of the White Paper were removed before that text was incorporated into the patent application.

Additionally, a system or service known as “Conductor Card Review” was jointly deployed by Block and Compuserve, which allowed Compuserve users to access account information for the Compuserve Visa Card through the Compuserve Online system. To the end-user, Conductor Card Review functioned similarly to the system envisioned by the Block patents, the Yodlee system or any other online banking sites—the ability to view account transactions. The Conductor Card Review system was limited to daily updates, however, and allowed access to only the Compuserve Visa card. The Conductor Card Review system was composed of three distinct operations: (1) credit card transaction data was received from processing firm in a daily batch file; (2) procedures developed by Block converted this file to an alternate Compuserve-compatible format and upload to the Compuserve system; and (3) the Compuserve system stored and displayed the information to the appropriate users. (Def. Suggestions in Opp., Block Motion

for Partial Summary Judgment Relating to Defendant's Claims of Inequitable Conduct, Ex. D, pp. 161-200).

The accused Yodlee system also allows end users to access a consolidated summary of their personal account information available on the web. (Def. Suggestions in Opp., Block Motion for Infringement, Ex. H). The Yodlee system enables users centralized access to a broad array of web-accessible account information including financial account and other account information including travel and email accounts. A high-level functional description of the Yodlee system, entitled "Yodlee Enterprise Edition: Gathering Infrastructure Overview," was filed with Defendant's motion of summary judgment for non-infringement. (Def. Suggestions in Support, Ex. J).

II. SUMMARY JUDGMENT STANDARD

Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). There is no genuine issue of material fact when "the record taken as a whole could not lead a rational trier of fact to find for the non-moving party." Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The Court must decide "whether the evidence presents a sufficient disagreement to require submission to a trier of fact or whether it is so one-sided that one party must prevail as a matter of law." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251-52 (1986). The Court must view the evidence in the light most favorable to the non-moving party and refrain from making credibility determinations or weighing conflicting evidence. Id. at 253-54.

III. DISCUSSION

A. Best Mode - 35 U.S.C. § 112

Under 35 U.S.C. § 112, a patent specification must “set forth the best mode contemplated by the inventor of carrying out his invention.” The purpose of the best mode requirement is to restrain inventors from applying for a patent while at the same time concealing from the public the preferred embodiments of their inventions. Wahl Instruments, Inc. v. Acvious, Inc., 950 F.2d 1575, 1579 (Fed. Cir. 1991) (citing In re Gay, 309 F.2d 769, 772 (C.C.P.A. 1962)). Patent invalidity for failure to set forth the best mode requires that (1) the inventors knew of a better mode of carrying out the claimed invention than they disclosed in the specification and (2) the inventors concealed the better mode. Chemcast Corp. v. Arco Indus. Corp., 913 F.2d 923, 927-28 (Fed. Cir. 1990). Each claim must be considered individually for compliance with the best mode requirement. See, e.g., Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 940 (Fed. Cir. 1990).

Where software constitutes part of a best mode of carrying out an invention, description of such a best mode is satisfied by a disclosure of the functions of the software. See In re Hayes Microcomputer Prods., Inc. Patent Litigation, 982 F.2d 1527, 1537-38 (Fed. Cir. 1992); In re Sherwood, 613 F.2d 809, 816-17 (C.C.P.A. 1980). This disclosure is sufficient because writing code for such software is within the skill of the art and would not require undue experimentation, once its functions have been disclosed. It is well established that what is within the skill of the art need not be disclosed to satisfy the best mode requirement as long as that mode is described. As a general rule, stating the functions of the best mode software satisfies that description test. Fonar Corp. v. General Elec. Co., 107 F.3d 1543, 1549 (Fed. Cir. 1997). Disclosure of specific

supplier and trade names may be necessary when the patentee cannot include sufficient generic details describing the claimed element. See Chemcast, 913 F.2d at 929-30 (holding disclosure of specific supplier and trade name was required where the patentee had no knowledge of the formula, composition or method of manufacture of a provided component which fell within the claims of the invention).

Yodlee argues that at the time of the application, Orbix was Block's preferred means for implementing the patents-in-suit, but Block only disclosed the use of CORBA¹. Disclosure of the CORBA standard, and thus by reference the functions or features contained within the CORBA, would meet the requirement described in the general rule above if it encompasses the feature set of the Orbix product. The record reflects, however, a dispute between the parties whether CORBA adequately encompasses the functionality within the Orbix product. The record is not sufficiently clear whether the "name server" component was part of the CORBA standard at the time of the patent application. Although the current CORBA standard does include a "name/locator service," the Court is not convinced that this resolves the best mode question regarding the CORBA standard at issue here. Furthermore, the Court believes there are issues regarding the knowledge and concealment of the best mode by the inventors, and these questions necessarily entail credibility determinations that are better handled by a jury. Thus, the Court concludes that summary judgment

¹ CORBA is an acronym for Common Object Request Broker Architecture and describes a standard for common binary object with methods and data that work using all types of development environments on all types of platforms. CORBA was created by the Object Management Group (OMG) industry consortium. In 1989, this consortium, which included IBM Corporation, Apple Computer Inc. and Sun Microsystems Inc. mobilized to create a cross-compatible distributed object standard. Using a committee of organizations, OMG set out to create the first (CORBA) standard which appeared in 1991. HyperDictionary, [at http://www.hyperdictionary.com/dictionary/Common+Object+Request+Broker+Architecture](http://www.hyperdictionary.com/dictionary/Common+Object+Request+Broker+Architecture) (last visited Oct. 14, 2003).

on the issue of failure to disclose the best mode is inappropriate at this time and therefore DENIES Yodlee's motion on this issue.

B. Inequitable Conduct

A party seeking to have a patent declared unenforceable because of inequitable conduct has a heavy burden to meet. Inequitable conduct requires a showing of misrepresentation or omission of a material fact with an intent to deceive the PTO by the applicant.² Molins PLC v. Textron, Inc., 48 F.3d 1172, 1178 (Fed. Cir. 1995). Both elements must be shown by clear and convincing evidence. Id. Information is material "when there is a substantial likelihood that a reasonable examiner would have considered the information important in deciding whether to allow the application to issue as a patent If the information allegedly withheld is not as pertinent as that considered by the examiner, or is merely cumulative to that considered by the examiner, such information is not material." Id. at 1179. Once the requisite levels of materiality and intent are shown, the Court must determine whether the equities warrant a conclusion that the patentee has engaged in inequitable conduct. Id. at 1178. As a result, a ruling as a matter of law that a reputable attorney has been guilty of inequitable conduct, despite his denials otherwise, is properly rare indeed. Burlington Indus., Inc. v. Dayco Corp. 849 F.2d 1418, 1422 (Fed. Cir. 1988).

Here, Yodlee contends that the inventors' and prosecuting attorney's failure to disclose Orbix and the Conductor Card Review system amounts to inequitable conduct and renders the

² Under PTO rules, the duty to disclose information material to patentability rests on each inventor; each attorney or agent who prepares or prosecutes an application; and all other individuals who are substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee, or with anyone to whom there is an obligation to assign the application. See 37 C.F.R. § 1.56 (2000). "Applicant" is used here for convenience. Molins PLC v. Textron, Inc., 48 F.3d 1172, 1178 n.6 (Fed. Cir. 1995).

patents-in-suit unenforceable. Yodlee also argues that the representation to the patent examiner during prosecution that Block had developed a “name server,” when it actually acquired the functionality through the purchase of the Orbix product, constitutes inequitable conduct. In light of Block’s denial of any inequitable conduct and the presence of other factual questions surrounding this issues, the Court concludes that neither party has presented evidence sufficient to warrant summary judgment as a matter of law.

1. Failure to Disclose Orbix

The parties agree that Block failed to disclose Orbix to the patent examiner, but they question whether Orbix was material to patentability. Both of the patents-in-suit disclose ORBs and the CORBA standard, and the parties agree that Orbix is an ORB and is a CORBA-compliant product. If Orbix’s functionality was a subset of the CORBA standard feature set, the disclosure of the vendor and product name would simply be cumulative and therefore nondisclosure would not be a material omission. The Court agrees that the disclosure of the CORBA standard combined with the disclosure of other competing distributed object technologies is a suitable substitute for disclosing every single vendor offering such products.

But Yodlee suggests that Orbix in particular was essential to successful operation of Block’s patents. Yodlee relies on deposition testimony indicating that Orbix met their design goals and describes “Orbix as the technology on which Block’s patented Conductor architecture was founded” as evidence of the materiality of the Orbix nondisclosure. It is clear to the Court that Orbix solved *part* of the design goals of the Conductor architecture, specifically the middleware piece. Orbix was not the only commercial product that could have been used, however, and the record indicates that the Block development team initially considered developing their own software to provide this functionality.

Yodlee also argues that nondisclosure of Orbix was material because Orbix contained certain functionality not found in the CORBA standard. Block's expert, John T. Korb, Ph.D., stated that at the time of application, the CORBA standard did not contain a "locator service." Yodlee argues that because CORBA did not contain the locator function and Orbix did, disclosure of CORBA does not render disclosure of Orbix cumulative and therefore immaterial. (Def. Reply Br. 5). Despite this extra feature in Orbix, the patent examiner was well aware of "name server" prior art. (Block Appendix of Exhibits, Ex. C, Notice of Allowance Dated May 19, 1997, p. 2). Additionally, the detailed description of the preferred embodiment within the patents themselves adequately described the name lookup functionality to inform the examiner as to the prior art. (Block Appendix of Exhibits, Ex. A, B, U.S. Patents '442 and '115).

Similarly, Yodlee has failed to demonstrate that Block intended to mislead or deceive the PTO by clear and convincing evidence. Although the patent description was largely based on the White Paper, which was edited to remove multiple references to Orbix before including large sections of its text in the patent application, the purposeful removal of certain commercial references cannot be viewed as an indicium of intent to mislead or deceive *per se*. Therefore, the Court concludes that there is no basis to find inequitable conduct by Block as a matter of law on the issue of failure to disclose Orbix.

2. "Invented" the Name Server Component

Yodlee also raises the issue of Block's representation to the PTO that it invented a name server when in fact it *purchased* this functionality. (Block Appendix of Exhibits, Ex. C, Amendment To Patent App. Dated Dec. 20, 1995, p. 7). As stated above, the patent examiner was aware of the name server prior art, and the patent was issued for Block's combination of elements and not simply because Block had invented a name server. (Block Appendix of Exhibits, Ex. C,

Notice of Allowance Dated May 19, 1997, p. 2). The record suggests therefore that the characterization of the origin of the name server was not a material misrepresentation.

The Court is nonetheless troubled by the characterization of the name server component by Block's attorney and is not convinced that this statement was made innocuously if Block's attorney had determined that a full disclosure would have been less convincing to the patent examiner and allowance of the patent would not have been granted. But the Court believes that any determination with respect to the credibility of Block's attorney is best left to a jury and will therefore not grant summary judgment on this issue.

3. Failure to Disclose Conductor Card Review

Yodlee's contention that the Conductor Card Review system was a material omission is similarly unpersuasive. The architecture of the Conductor Card Review system does not resemble the claimed inventions in patents-in-suit. The CompuServe online service itself handled the presentation of data according to its proprietary system. The architecture deployed by Geller was limited to the batch collection, processing and uploading of data in a proprietary format. The Conductor Card Review system essentially resembled any other online banking site where access to a single set of account information was possible. In contrast, the patents-in-suit envision an architecture that allows access to a plurality of financial information sources utilizing a standard set of protocols and interfaces. The Court therefore finds that the failure to disclose the Conductor Card Review system was not a material omission, and thus there is no need to address the intent to deceive element. For the aforementioned reasons, the Court finds summary judgment on the issue of inequitable conduct inappropriate and accordingly DENIES both Yodlee's motion for summary judgment and Block's cross-motion for summary judgment on this issue.

C. Infringement/Non-infringement

Block next asserts that Yodlee is infringing on claims 1-3, 5, 7-11 of the '442 patent³ and on claims 1, 5, 8, and 9 of the '115 patent.⁴ Because of the presence of several dependant claims, the Court need only determine whether the Yodlee system infringes on the independent claims 1, 5, and 11 of the '442 patent and claims 1, 5, and 8 of the '115 patent.⁵

1. Literal Infringement

In such cases, "[w]here the parties do not dispute any relevant facts regarding the accused product . . . but disagree over possible claim interpretations, the question of literal infringement collapses into claim construction and is amenable to summary judgment." General Mills, Inc. v. Hunt-Wesson, Inc., 103 F.3d 978, 983 (Fed. Cir. 1997) (citing Athletic Alternatives, Inc. v. Prince Mfg., Inc., 73 F.3d 1573, 1578 (Fed. Cir. 1996)). To demonstrate that the Yodlee system literally infringes on the aforementioned claims of the patents-in-suit, Block must establish that Yodlee's system contains every limitation of each claim. See Lemelson v. United States, 752 F.2d 1538, 1551 (Fed. Cir. 1985). "It is also well settled that each element of a claim is material and essential," id., and "the failure to meet a single limitation is sufficient to negate infringement of the claim," Laitram Corp. v. Rexnord, Inc., 939 F.2d 1533, 1535 (Fed. Cir. 1991).

³ Claims 2 and 3 are dependent claims incorporating the limitations of independent claim 1. Claims 7-10 are dependent claims incorporating the limitations of independent claim 5. Claim 11 is an independent claim.

⁴ Claim 9 is a dependent claim incorporating claim 8 and adds the storage of unique identification information within an identification server.

⁵ It is well established that where independent claims are not infringed, there can be no infringement of the dependent claims. See Wahpeton Canvas Co., Inc. v. Frontier, Inc., 870 F.2d 1546, 1553 (Fed. Cir. 1989) ("It is axiomatic that dependent claims cannot be found infringed unless the claims from which they depend have been found to have been infringed.").

Claims 1, 5 and 11 of the '442 patent and claims 1 and 5 of the '115 patent describe the existence of a "name server" or "identification server." The function of the name server is to provide location abstraction for the requesting client and allow the location of financial information servers to be "hidden" from the requesting client. The patents-in-suit describe this as a critical feature of the distributed system. The question for the Court to address is whether the lookup function within the Yodlee system reads on the "name server" limitation. In the Yodlee system, the lookup function takes an ItemID from the client request and looks up the corresponding customer record. The Yodlee customer record contains, at minimum, a web site address and username/password information that the Yodlee gatherer component uses to access the remote financial institution website and collect summary account information to store and display to the user.

The Yodlee lookup procedure utilizing the ItemID is not the literal equivalent of the limitations contained with the claims of the patent-in-suit. This lookup, or refresh request, does not contain the name of a financial server, and the result of this lookup does not produce a location whereby the client can subsequently connect to the financial information server. The Court's determination does not rest on whether the ItemID is a name or whether the patents-in-suit require "customer-oriented" or "customer-friendly" names. Yodlee's system does not literally infringe because the transaction itself does not read on the claim limitation. The Yodlee refresh request starts a series of processes whereby the system's data store is updated with current information from the remote financial institution's website. In the Yodlee refresh process, updating is performed by components within the Yodlee system and not directly by the requesting client.

Each of the independent claims also describe a communication link between the client and financial information server.⁶ There is no question that these limitations do not literally read onto the Yodlee system. As described above, the client within the Yodlee system never establishes any direct communication link to the financial information server. In the Yodlee system, all data communication links are exclusively between the client process and the Yodlee web server. Consistent with the Court's Markman construction of the term "communication link," there is no literal infringement when the two entities described never connect via a communication link.

2. Infringement Under the Doctrine of Equivalents

"An accused product that does not literally infringe may infringe under the doctrine of equivalents if it performs substantially the same function in substantially the same way to obtain the same result." Southwall Techs., Inc. v. Cardinal IG, Co., 54 F.3d 1570, 1579 (Fed. Cir. 1995). "Each element contained in a patent claim is deemed material to defining the scope of the patented invention, and thus the doctrine of equivalents must be applied to individual elements of the claim, not to the invention as a whole." Warner-Jenkinson Co., Inc. v. Hilton Davis Chemical Co., 520 U.S. 17, 29 (1997). Equivalence also requires that the accused product is not substantially different from the claims of the patent. Id. at 35. Analysis of the role played by each element of

⁶ The '442 patent Claim 1 describes a "communication link between said client and said financial information server at said location," Claim 5 describes a step "binding said client to said financial information server at said location," and Claim 11 describes "an interface for linking said client to one of said financial information servers." The '115 patent Claim 1 describes a "communication link between said client and said financial information server at said location," Claim 5 describes a step involving a "communication link" between the client and name server where a "name" is sent and a "location" returned to the client. Claim 5 also describes a "second communication link between said client and said server." Finally, Claim 8 describes "a communication link between said client and said financial information server associated with said unique identification."

the specific patent claim will "inform the inquiry as to whether a substitute element matches the function, way, and result of the claimed element, or whether the substitute element plays a role substantially different from the claimed element." Id. at 41. To prevail on a claim of infringement under the doctrine of equivalents, a patentee must prove by a preponderance of the evidence that "the differences between the claimed and accused products or processes are insubstantial." Hilton Davis Chemical Co. v. Warner-Jenkinson Co., 62 F.3d 1512, 1517 (Fed. Cir. 1995). The Court assesses the substantiality of the differences between two products "according to an objective standard" viewed from "the vantage point of one of ordinary skill in the relevant art." Id. at 1519. The doctrine of equivalents is applied on an element-by-element basis, not to the invention as a whole. See Warner-Jenkinson, 520 U.S. at 29. The Federal Circuit has explained that the "function-way-result" test may help detect an equivalent. Overhead Door Corp. v. Chamberlain Group, Inc., 194 F.3d 1261, 1270 (Fed. Cir. 1999). The function-way-result test dictates that an element in the accused product is equivalent to a claimed element if the accused element performs substantially the same function in substantially the same way to accomplish substantially the same result as the claimed element. Id. In addition, "[a]lthough equivalence [under the doctrine of equivalents] is a factual matter normally reserved for a fact-finder, the trial court should grant summary judgment in any case where no reasonable fact-finder could find equivalence." Id. at 1269. A patent applicant can be estopped from benefitting from the doctrine of equivalents, however, by the doctrine of prosecution history estoppel. Warner-Jenkins, 520 U.S. at 30. Under this doctrine, subject matter surrendered during the patent's prosecution to obtain allowance of the patent cannot be recaptured under the doctrine of equivalents. Id.

During the application process, various claims were rejected by the patent examiner under 35 U.S.C. § 103(a) as being unpatentable over the prior art. (Block Appendix of Exhibits, Ex. C,

Amendment To Patent App. Dated Dec. 20, 1995, p. 8). Although Block was ultimately granted the patents, the prosecution history now limits the scope of the analysis of the claims under the doctrine of equivalents. The patent examiner stated:

The claims are allowed because of applicants' arguments limiting interpretation of the claims by the prosecution history. The claims must not be read in a vacuum of only themselves. The concept of reassignment of a web site address is notoriously well known as the definition of domain name server (DNS) and for security protection purposes such as use of firewall which reassigns addresses so that the user does not need to track such even when specific web site's address may change. Web page pointers to other web sites are also notorious. The claimed specific plural structural components so named and for their specific functions and desired results are not seen in the prior art.

(Block Appendix of Exhibits, Ex. C, Notice of Allowance Dated May 19, 1997, p. 2). The last sentence of the examiner's statement suggests that Block is substantially precluded from alleging infringement under the doctrine of equivalents. "[S]pecific function" seems to limit the Court from examining the Yodlee system under the "function-way-result" test. Notwithstanding the potential limitation imposed under the doctrine of prosecution history estoppel, the Court will examine the "name server" and "communication link" limitations in terms of equivalence.

The function described by the "name server" limitations within Block's patents-in-suit returns location information to a client attempting to connect to a financial information server. Looking beyond the technical aspects of this function and focusing on its role within the invention, the Court finds that its essential function is to act as a gateway between the requesting client and the financial information server, and this gateway function is important for various reasons described within the patents themselves.

The question the Court must then consider is whether the database lookup performed within the Yodlee system, in which a data record containing the customer's account information allows

automated access to a remote website, performs substantially the same function. The Court notes that this question must be answered from the perspective of one of ordinary skill in the relevant art. It is clear that the two functions are substantially similar to the extent that both ultimately enable communication with a server containing the relevant financial information. The Court opines, however, that this seems to be the extent of the similarities of the accused system to the claimed system.

The “way” the name server in Block’s invention functions is as a gateway—the location information for a relevant financial information server is passed to the client process so that the client process can subsequently connect to said financial information server directly and request specific financial information via the defined interface. In Yodlee’s system, the ItemID lookup process does not return the location information to the client but instead adds it to an internal work queue, whereby other components within the system access the remote site, collect, transform and store the resulting information within the system. After this process is completed, any subsequent access by the customer will display the updated information.

On a more general level, the Yodlee system is employing a substantially different means for aggregating customer financial information. Block’s patents describe a “middleware”⁷ approach, whereby a common interface exists between the clients and servers within the system and is based on the attributes of the financial information accessible from the system. As the Court stated in its Markman order, this approach does not require any specific “middleware” product or

⁷ Middleware is software that mediates between an application program and a network. It manages the interaction between disparate applications across the heterogeneous computing platforms. The Object Request Broker (ORB), software that manages communication between objects, is an example of a middleware program. HyperDictionary, at <http://www.hyperdictionary.com/computing/middleware> (last visited October 14, 2003).

technology like ORBs, CORBA, or even objects. In contrast, the Yodlee system has eschewed this approach and has instead developed a system whereby information is collected from “public” web-sites⁸ that are made available to customers of various financial institutions. Under Yodlee’s approach, there is no “common interface” as the information providers do not deploy their customer-accessible web-sites in a common fashion. Additionally, the attributes of such an interface, should it be described as such, are not based on the information contained within the system. Yodlee instead developed more than 6000 gatherer agents that “know” how to navigate and collect information from specific information provider websites, not limited to any particular type of information, interface or format.

Furthermore, there is no evidence in the record that Yodlee’s lookup mechanism was deployed in a manner to “design around” the patent by merely inserting a minor technical difference to avoid the limitations within the patents-in-suit. In fact, the utilization of the work queue and the multiple communication links is likely a necessary response to inherent latency problems when accessing the financial information from public web-sites over the Internet.

The Court therefore finds that the “name server” function contained within claims 1, 5 and 11 of the ‘442 patent and claims 1 and 5 of the ‘115 patent and the “communication link” function in the above claims and claim 8 of the ‘115 patent are not infringed under the doctrine of equivalents. Thus, because the accused system does not meet the above limitations and there is no genuine issue of material fact remaining, no reasonable jury could find that Yodlee’s system infringes the patents-in-suit under the doctrine of equivalents. For the aforementioned reasons, the

⁸ The Court is not suggesting these websites are public in the sense that anyone may access them at anytime but that they are published on the Internet and may be accessed by anyone with proper credentials to do so.

Court concludes that summary judgment on the issue of non-infringement is appropriate and GRANTS Yodlee's motion for summary judgment. Accordingly, the Court DENIES Block's cross-motion for partial summary judgment of infringement.

IV. CONCLUSION

For the reasons discussed above, it is hereby

ORDERED that Yodlee's motion for summary judgment of invalidity due to failure to disclose the best mode, (Doc. 78); Yodlee's motion for summary judgment of unenforceability due to inequitable conduct, (Doc. 85); Block's cross-motion on inequitable conduct, (Doc. 82); and Block's motion for partial summary judgment of infringement, (Doc. 83) are DENIED; it is further ORDERED that Yodlee's motion for summary judgment of non-infringement, (Doc. 81), is GRANTED.

IT IS SO ORDERED.

/s/ DEAN WHIPPLE

Dean Whipple
United States District Judge

Date: October 16, 2003