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U.S. Patent No. 8,787,895

U.S. Patent No. 8,787,895 ("*Adim8 LLC*" or the "patent-at-issue") was filed on January 3, 2012. According to the paragraph in the specification entitled "Cross-Reference to Related Applications," the patent-at-issue is a divisional application of Ser. No. 12/051,388 and claim the benefit of U.S. Provisional Application No. 60/918,853, filed March 20, 2007. Claim 1 of the patent-at-issue is generally directed to a display system and method of advertising which includes loading a graphic advertisement onto a computer-readable medium of an electronic device. The graphic advertisement has a first time passage indicator to indicate a passage of time during idle-time periods, and a second time passage indicator different from the first time passage indicator that (i) is representative of a graphic advertisement and (ii) indicates a passage of time during the first idle-time period. The graphic advertisement is displayed when the device is in the idle-time period, animated to indicate the passage of time, and removed after the idle-time period has ended.

The primary reference, U.S. Patent No. 8,341,264 ("*Yahoo*"), was filed on May 24, 2011. According to its cover page, the publication claims an earliest priority date of April 7, 2000 on the basis of a prior application. The publication is directed to a method of presenting advertising to viewers in a computer network environment which includes monitoring a viewer's interactions with an associated computer system, and adjusting a timing of displayed advertisements on the viewer's associated computer system based on one or more of the viewer's monitored interactions.

The secondary reference, U.S. Patent No. 8,989,718 ("*Blue Hills*"), was filed on October 30, 2007. According to its cover page, the publication claims an earliest priority date of November 5, 2005 on the basis of a prior application. The patent is directed to a method for providing a user interface that simultaneously and dynamically presents a sponsored content concurrently with activating a mobile communication facility, wherein the dynamic presentation is based at least in part on a mobile subscriber characteristic.

The primary reference, U.S. Patent No. 7,636,456 ("*Sony*"), was filed on January 21, 2005. According to its cover page, the publication claims an earliest priority date of January 23, 2004 on the basis of a prior application. The patent is directed to a display arrangement that comprises an image display device having two or more sets of images for display; a camera directed towards positions adopted by users viewing the display; a face detector for detecting human faces in images captured by the camera, the face detector being arranged to detect faces in at least two face categories; and means, responsive to the a frequency of detection of categories of faces by the face detector at one or more different periods, for selecting a set of images to be displayed on the image display device at that time of day.

The primary reference, U.S. Pat. App. No. 2008/0059571 ("*Soon Khoo*"), was filed on October 29, 2007. According to its cover page, the publication claims an earliest priority date of March 14, 2001 on the basis of a prior application. The patent is directed to a system for displaying intermediate message content over the unused area of a web browser. The process monitors user activity on the client computer and identifies areas of the web browser display area that are not

used. Upon detection of an unused clear space within the web browser display area, an intermediate message is displayed in the clear area of the web browser.

A sample claim chart comparing claim 1 of *Adim8 LLC* to *Yahoo*, *Blue Hills*, *Sony* and *Soon Khoo* is provided below.

US8787895 (*"Adim8 LLC"*)	A. US8341264 (*"Yahoo"*) B. US8989718 (*"Blue Hills"*) C. US7636456 (*"Sony"*) D. US20080059571 (*"Soon Khoo"*)
1.pre A **method of advertising via a device accessing a network**, **the device having a computer-readable medium, a processor, a display**,	**A. US8341264** "Referring to FIGS. 8-12, **an instant messaging system** 800, such as AOL's Instant Messenger (AIM), **includes a "Buddy List" window** 805 that presents a list of a user's buddies that are currently online. **The buddy list window** 805 **includes an upper advertising "hot spot"** 810 (an active region that can be sensed when the curser is atop it and can be used to trigger other actions) **displaying an upper ad** 815, **a lower advertising hot spot** 820 **displaying a lower ad** 825, a list of people online tab 830, a list setup tab 835, a link 840 for sending messages, a link 845 for sending a buddy chat invitation, and other links 850 to the web." *Yahoo* at col. 6:43-53 "The **computer system** 100 illustrated in FIG. 1 **represents a typical computer setup for executing software that allows a user to perform tasks such as communicating with other computer users**, accessing various computer resources, and viewing, creating, or otherwise manipulating electronic content—that is, any combination of text, images, movies, music or other sounds, animations, 3D virtual worlds, and links to other objects. **The system includes input/output (I/O) devices** (e.g., a mouse 103, a keyboard 105, and **a display** 107) **and a general purpose computer** 110 **having a central processor unit (CPU)** 115, an I/O unit 120 **and a memory** 125." *Yahoo* at col. 1:17-27 "In one general aspect, **a method of presenting advertising to viewers in a computer network environment** includes monitoring a viewer's interactions with an **associated computer system**, and adjusting a timing of advertisements displayed on the viewer's associated computer system based on one or more of the viewer's monitored interactions." *Yahoo* at col. 4:24-29 **B. US8989718** "The **sponsorship facility** 162 **stores premium content from sponsors that pay the wireless provider** 108 **to display this**

1.pre A **method of advertising via a device accessing a network**, **the device having a computer-readable medium, a processor, a display**,	**content to relevant users**. Sponsors' information may link to a web site visited by the user (i.e., pay-per-click), or link to a call (i.e., pay-per-call). Sponsor information may include information that is text only, graphic information in the form of photographs, graphic art designs, or video, as well as various combinations of these." *Blue Hills* at col. 26:62-67 through col. 27:1-2
	"In embodiments, the present invention may provide **a method** and system **for providing a user interface that simultaneously and dynamically presents a sponsored content concurrently with activating a mobile communication facility**, wherein the dynamic presentation is based at least in part on a mobile subscriber characteristic." *Blue Hills* col. 4:37-42
	"In embodiments, the **mobile content may be an advertisement, a sponsored content**, a sponsored call or a search box. In embodiments, the mobile content may be branded using a wireless carrier brand." *Blue Hills* at col. 3:62-67 through col. 4:1-4
	"In embodiments the **mobile communication facility** 102 **may be any device capable of wireless communication, including**, but not limited to a mobile phone, cell phone, satellite phone, walkie-talkie, handheld device, personal digital assistant (PDA), **mobile network appliance,** or an email, instant messaging, or chat device." *Blue Hills* at col. 7:1-6
	"The address bar may be presented in a graphical user interface on a **display associated with the mobile communication facility** 102." *Blue Hills* at col. 7:50-52
	"In a wireless search platform 100, a **mobile communication facility** 102 **may include a cache such as a cache memory, or a portion of a memory organized as a cache**." *Blue Hills* at col. 38:49-51
	"The client application interface may be a software program operating through a **processor (and operating system) on the mobile communication facility**, and the program may facilitate processes used in the mobile communication facility and/or generate information through the display 172." *Blue Hills* at col. 37:5-10
	C. US7636456

| 1.pre A **method of advertising via a device accessing a network**, **the device having a computer-readable medium, a processor, a display**, | "FIG. 1 schematically illustrates a display arrangement according to the present technique. **The display arrangement is located at a predetermined position in a store (shop)**, mounted on a shelf amongst products displayed for sale. **The display arrangement** 100 **comprises**: a camera 110; a graphics card 120; **a plasma display screen** 130 (of course, other types of display could be used); an audio generator 140; a face detection/recognition module 150; a statistical analysis module 160; **a network interface** 170; a communication bus 180; **a data storage device** 190; **local memory** 192 **and a processor** 194. **The display device is connected to a network of such devices through a communications network** 196. **A control computer** 600 communicates with the display arrangement 100 via the network 196." *Sony* at col. 2:39-52

"The camera 110 is discreetly mounted, perhaps in a frame of the display, so as not to distract the **viewer's attention from the promotional display presentation comprising advertising images for products or services available and so as not to inhibit a viewer's normal reaction to the displayed material**." *Sony* at col. 2:62-67

D. US20080059571
"Aspects of the present invention may be implemented on one or more computers executing software instructions. According to one embodiment of the present invention, server and client computer systems transmit and receive data over a computer network or standard telephone line. The steps of accessing, downloading, and manipulating the data, as well as other aspects of the present invention are implemented by **central processing units (CPU) in the server and client computers executing sequences of instructions stored in a memory**." *Soon Khoo* at par. 0031

"FIG. 1 illustrates a **computer network system** 100 that implements one or more embodiments of the present invention. In system 100, a **network server computer** 104 **is coupled, directly or indirectly, over line** 125 **to one or more network client computers** 102 **through a network** 110." *Soon Khoo* at par. 0033

"**Another class of client computers is represented by mobile client** 118. **Mobile client** 118 **can be a mobile computing or communication device, such as a notebook computer, personal digital assistant (PDA), mobile phone, game console, or any similar class of mobile computing device** |

1.pre A **method of advertising via a device accessing a network**, **the device having a computer-readable medium, a processor, a display**,	**with sufficient processing, communication, and message display capability. Typically, such mobile devices contain relatively small display screens in which display area is at a premium**. **Mobile client devices may access network** 110 **through other networks, such as cell networks and the like**." *Soon Khoo* at par. 0036 "In one embodiment of the present invention, the intermediate message display process 105 comprises **a client side clear space display process that is executed by network client** 105. **The client side clear space display process** 105 **displays an intermediate message content** in the unused or clear areas of web browser 114 **displayed on the client** 102. **The intermediate message content can comprise text or graphic messages, such as pop-up advertisements or other similar messages**" *Soon Khoo* at par. 0038
1.pre and **a first time passage indicator to indicate a passage of time during idle-time periods**, wherein the **first time passage indicator is disposed on or in the computer-readable medium**, the method comprising:	**A. US8341264** ""**Idle delay" designates the time to wait after a user has become "idle" before replacing an ad with another ad. The term "idle" is used to describe the condition in which the user is not interacting with the computer** through, for example, either the mouse, the keyboard, or another device that sends, or causes to be sent, an input signal to the computer." *Yahoo* at col. 9:33-38 "As illustrated in FIG. 15, in obtaining the user information (step 1010), the client software first determines whether the user is active (step 1015). If the user is active, the client software sets a status variable to active (step 1020) and initializes a user active timer (A) (step 1022). **Otherwise, the client software sets the status variable to idle** (step 1025). **The client software then initializes a user idle timer** (I) (step 1027) and returns to the procedure 1000. **The client software then displays a first ad that has a count less than the maximum and an ad expiration time** that has not exceeded either a relative clock (e.g., 1 hour) or an absolute clock (e.g., 2 PM) (step 1030), increments the count for that ad (step 1033), sets a state variable "ad-ready-to-flip" to false (step 1035), and initializes a timer (T) for that ad (step 1036)." *Yahoo* at col. 10:19-32 **C. US7636456** "At a stage 570 the cumulative dwell time (for customers of all face categories) is also incremented to include the dwell time of the currently detected face. **At a stage** 580, **when it has**

1.pre and **a first time passage indicator to indicate a passage of time during idle-time periods**, wherein the **first time passage indicator is disposed on or in the computer-readable medium**, the method comprising:	**been determined that the human face is no longer in shot of camera one and that no other human face is in shot, an idle time counter is started**. **While the idle time counter is running it is determined whether the maximum idle time, which in this case is set to be five minutes, has elapsed**. **During this time the display screen remains in active mode, but displays a static image rather than an animated sequence**. **When the idle time exceeds the maximum idle time without a further human face having been detected by the face detection/recognition module** 150, the processor 194 powers down the plasma display screen into an inactive mode at a stage 592 to reduce power consumption." *Sony* at col. 7:66-67 through col. 8:1-13

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"A user may access the taskbar commands to input a web page URL or access the navigation buttons. When the user is viewing a downloaded web page, however, this taskbar area is idle and unused. **A timer and display process is used to determine that the taskbar is idle when the cursor has been positioned within the web page area of the browser window, or the cursor has not been moved or clicked for a certain period of time while in the taskbar area and the keyboard controlled browser taskbar functions have not been actuated**." *Soon Khoo* at par. 0063

"In one embodiment of the present invention, **the taskbar overlay process monitors both the position of the cursor and the idle time of the cursor**. For this embodiment, the automatic taskbar overlay defines a demarcation line on the web browser display area, and includes a timer routine that monitors the period of inactivity or use of the cursor. **The time routine records the elapsed time that the cursor or taskbar controls have been idle**." *Soon Khoo* at par. 0072

"A more detailed description of how **the automatic taskbar overlay process monitors the idle time of the cursor** is described in the flowchart of FIG. 8. In step 802, the automatic taskbar overlay process initializes or reset the timer to zero. The system waits for one second, step 804, and then sets to the timer to prior time +1 second, step 806. The timer is checked to determine if the elapsed time is less than a preset time 808." *Soon Khoo* at par. 0076 |

1.a loading **a second time passage indicator onto or into the computer-readable medium of the device before detecting a first idle-time period**, wherein **the second time passage indicator is different from the first time passage indicator and the second time passage indicator** (i) **is representative of a graphic advertisement** and (ii) **indicates a passage of time during the first idle-time period**;	**A. US8341264** "As discussed in more detail below, **a portion of the system** 800 **controls ad timing access and considers system idle time information**. In this manner, the timing of ad transitions can be tied to what the user is doing in a particular application that has ads displayed. For example, **the timing of an ad transition can be based on the user idle time with respect to the system idle time rather than the application idle time**. This is useful because the user may be idle in one application but active in another." *Yahoo* at col. 7:10-18 "The client software then initializes **a user idle timer** (I) (step 1027) and returns to the procedure 1000. The client software then displays a first ad that has a count less than the maximum and an ad expiration time that has not exceeded either a relative clock (e.g., 1 hour) or an absolute clock (e.g., 2 PM) (step 1030), increments the count for that ad (step 1033), sets a state variable "ad-ready-to-flip" to false (step 1035), and initializes **a timer (T) for that ad** (step 1036)." Yahoo at col. 10:24-32 "The **ads presented in upper advertising hot spot** 810 **and lower advertising hot spot** 820 **can be changed periodically to display a series of different ads.** The ads 815 and 825 displayed in hot spots 810 and 820, respectively, can be changed simultaneously or at different times. For example, as illustrated in FIG. 9, **the upper ad** 815 **has been replaced with another ad** 870, **while the lower ad** 825 **has been replaced with another ad** 875." *Yahoo* at col. 6:57-64 **B. US8989718** "Referring to FIG. 21, in **embodiments a user interface may be provided that simultaneously and dynamically presents a sponsored content** 2102 **in an idle screen** 2100 **display** 172 concurrently with activating 2104 a mobile communication facility 112 based at least in part on a mobile subscriber characteristic that is associated with the mobile communication facility." *Blue Hills* at col. 174:24-30 "**The content may be temporary, placed on the idle screen** 2100 **for a predetermined time period**, or remain on the idle screen 2100 until the user selects to change the content 2102." *Blue Hills* at col. 175:61-64 **C. US7636456**

1.a loading **a second time passage indicator onto or into the computer-readable medium of the device before detecting a first idle-time period**, wherein **the second time passage indicator is different from the first time passage indicator and the second time passage indicator** (i) **is representative of a graphic advertisement** and (ii) **indicates a passage of time during the first idle-time period**;	"**The face detection/recognition module** 150 **is operable to detect both the in-shot time of each human face and the dwell time**, which is the time for which the detected human face directly views (i.e. is oriented directly towards) the display screen 130. A cumulative dwell time may also be recorded. **The cumulative dwell time represents the total time spent either by all detected faces within a given time period or by a predetermined category of detected faces** (e.g. male faces or children's faces) **directed towards the display screen associated with the particular camera**)." *Sony* at col. 4:17-27
	"At a stage 560 the face detection/recognition module 150 determines whether or not the human face is still in shot. If the face is determined to be still in shot then the image capture continues at a stage 562. **However, if it is determined that the human face is not in shot then an in-shot timer is stopped and at a stage** 570 **the captured image sequence is analysed by the face detection/recognition module** 570 **to detect the total dwell time of the identified human face at camera** 1. **The total dwell time is the time that the face was oriented directly towards the camera (within a given tolerance margin) and hence the display screen**." *Sony* at col. 7:55-65
	"At a stage 1470 the goods purchased by the customer at the checkout, as identified by product barcodes, are correlated with the product advert IDs and finally at a stage 1480 the correlation between purchased products and **viewed adverts is logged in the statistics database** 620 **along with the dwell time at the display screen on which the relevant promotional advert was viewed**." *Sony* at col. 11:44-50
	D. US20080059571
	"In one embodiment of the present invention, **the intermediate message display process includes a timer routine that records the elapsed time for the display of the intermediate message**. The user can set the minimum duration of the message display (e.g., the minimum time that the advertisement is displayed after a context switch event), as well as the maximum duration of the message display." *Soon Khoo* at par. 0092
	"The **program next generates and transmits the intermediate message or data to the user web browser for display within a window** 212 within the main display area

1.a loading **a second time passage indicator onto or into the computer-readable medium of the device before detecting a first idle-time period**, wherein **the second time passage indicator is different from the first time passage indicator and the second time passage indicator** (i) **is representative of a graphic advertisement** and (ii) **indicates a passage of time during the first idle-time period**;	204 of the web browser. **The generated message is then displayed for a specified period of time that is related to the browser idle time caused by the delay associated with the context switch event**." *Soon Khoo* at par. 0090 "**After the global variables are defined, the program will begin to execute two other predefined processes**. **These processes include a timer process** 1204 **that comprises an ad timer process and an evaluation timer process**. These two timers are executed periodically, such as once every 50 milliseconds, and perform tasks such as detecting the status of each active instance of any open web browser program so that appropriate actions may be performed." *Soon Khoo* at par. 0096 "If the web browser is active, the process waits for a context switch event, such as the loading of a new web page, step 1210. **When a context switch event is detected the ad timer process is started. This timer measures the duration that the ad message is displayed, and is only incremented when an ad message is displayed**." *Soon Khoo* at par. 0099
1.b **updating application information on or in the device and thereby providing the first idle-time period**;	**A. US8341264** "**The state variable, "ad-ready-to-flip" is used to ensure that the user has been idle before the allowing the ad to be flipped. As described below, the idle/active status of the user is periodically checked and, when the user is found to be idle, the state variable is changed to true**." *Yahoo* at col. 10:34-38 **B. US8989718** "The **suggestion cache may also be updated during idle time** by asking the server for an updated set of suggestions to store in the cache. **Idle time may be defined as any point at which the application is running but not making other HTTP requests**." *Blue Hills* at col. 105:65-67 through col. 106:1-2 **D. US20080059571** "As described above, **the content of the message displayed in the intermediate message display window may be provided by the intermediate message content data** 127 contained in local memory of the client (web browser) computer. **This may be done by storing the intermediate message content data** 127 **in the client computer local memory**, such as a cache

1.b **updating application information on or in the device and thereby providing the first idle-time period**;	memory, **and uploading this data from the cache during web browser idle periods**." *Soon Khoo* at par. 0057
1.c **displaying the second time passage indicator on the display of the device during the first idle-time period**, wherein **the first idle-time period includes a time corresponding to updating application information on or in the device** and **wherein the graphic advertisement of the second time passage indicator is associated with an entity, product and/or service**; and	**A. US8341264** "For example, **if the minimum display time is set at fifteen seconds, the ad will be displayed for at least fifteen seconds before another ad is displayed**. The minimum display time is set lower than the ad expiration time. The minimum display time prevents "ad-idle-ad" situations in which the second occurrence of the ad is only for a fleeting moment." *Yahoo* at col. 9:26-32 **B. US8989718** "The **suggestion cache may also be updated during idle time** by asking the server for an updated set of suggestions to store in the cache. Idle time may be defined as any point at which the application is running but not making other HTTP requests." Blue Hills at col. 105:65-67 through col. 106:1-2 "In embodiments, a user of the mobile communication facility **may interact with sponsored content** (e.g. click on a sponsored line) **and make a transaction within the sponsored content (e.g. the user may purchase a music download, ringtone, wall paper or the like).** In such embodiments, the purchase price of the purchased content may appear on the user's wireless provider bill, as opposed to being billed from the sponsor." *Blue Hills* at col. 149:38-45 "Referring to FIG. 21, in **embodiments a user interface may be provided that simultaneously and dynamically presents a sponsored content** 2102 **in an idle screen** 2100 **display** 172 concurrently with activating 2104 a mobile communication facility 112 based at least in part on a mobile subscriber characteristic that is associated with the mobile communication facility." *Blue Hills* at col. 174:24-30 **C. US7636456** "The flow chart of FIG. 4 relates to promotion of products but it will be appreciated that **advertisements for services such as financial services could alternatively be displayed on the plasma display screens**." *Sony* at col. 6:60-63

1.c displaying the second time passage indicator on the display of the device during the first idle-time period, wherein **the first idle-time period includes a time corresponding to updating application information on or in the device** and **wherein the graphic advertisement of the second time passage indicator is associated with an entity, product and/or service**; and	"**In this arrangement the idle time counter begins to count as soon as it is determined that there is no human face in shot, but in alternative arrangements** (such as that described above with reference to FIG. 3) **the idle time counter could be started only at the end of a given promotional sequence if it is determined at that stage that a human face is no longer in shot**." *Sony* at col. 8:14-19 **D. US20080059571** "Embodiments of the present invention allow **advertisers to effectively increase their exposure for their products or services**." *Soon Khoo* at par. 0055 "In this case, **new message can be uploaded to replace messages that have been viewed a set number of times or that are otherwise stale**. **For example, if it is determined that a particular advertisement has been displayed on ten successive scrolled web pages, a new ad can be uploaded during the idle period of the web browser instance, so that the next time the taskbar is idle, a new ad is viewed**." *Soon Khoo* at par. 0059 "In one embodiment of the present invention, **the intermediate message display process includes a timer routine that records the elapsed time for the display of the intermediate message**. The user can set the minimum duration of the message display (e.g., the minimum time that the advertisement is displayed after a context switch event), as well as the maximum duration of the message display." *Soon Khoo* at par. 0092
1.d animating the graphic advertisement of the second time passage indicator on the display of the device during at least a portion of the first idle-time period.	**A. US8341264** "As illustrated in FIG. 10, **the ad** 875 **is an animated ad in which a cursor** 880 **moves across the ad** 875, and is designed to catch the user's attention. **Other forms of animated advertising also can be displayed in the upper advertising hot spot** 810 **and the lower advertising hot spot** 820." *Yahoo* at col. 6:65-67 through col. 7:1-2 **B. US8989718** "The **sponsorship facility** 162 **stores premium content from sponsors that pay the wireless provider** 108 **to display this content to relevant users**. Sponsors' information may link to a web site visited by the user (i.e., pay-per-click), or link to a call (i.e., pay-per-call). **Sponsor information may include**

1.d **animating the graphic advertisement of the second time passage indicator on the display of the device during at least a portion of the first idle-time period**.	**information that is** text only, graphic information in the form of photographs, graphic art designs, **or video**, as well as various combinations of these." *Blue Hills* at col. 26:62-67 through col. 27:1-2 **C. US7636456** "**The plasma screen** 130 is driven by the graphics card 120 and **presents display information from a selection of possible promotional display sequences** stored on the data storage device 190. The processor 194 is (or is based on) a Sony® NSP100™ processor and is operable to control download of display sequences via the network 196." *Sony* at col. 3:1-6 **D. US20080059571** "As described in reference to FIG. 4, the **intermediate message could comprise text, graphic, video or other content provided by the client computer locally**, or downloaded over the network from a remote content provider or server." *Soon Khoo* at par. 0052