

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

VIRTUAL CREATIVE ARTISTS, LLC,

Plaintiff,

v.

1STDIBS.COM, INC.,

Defendant.

C.A. No. 1:24-cv-06355

JURY TRIAL DEMANDED

PATENT CASE

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Virtual Creative Artists, LLC files this Original Complaint for Patent Infringement against 1stDibs.com, Inc. and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff Virtual Creative Artists, LLC (“VCA” or “Plaintiff”) is a Delaware limited liability company, having business address at 338 Gracious Way, Henderson, NV 89011.

2. On information and belief, Defendant 1stDibs.com, Inc. (“1stDibs” or “Defendant”) is a corporation organized and existing under the laws of Delaware. Defendant has its principal place of business at 300 Park Avenue South, 10th Floor, New York, NY 10010.

II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is subject to this Court’s specific and general personal jurisdiction, pursuant to due process and the New York Long-Arm Statute, due at least to its business in this forum, including at least a portion of the infringements alleged herein at 300 Park Avenue South, 10th Floor, New York, NY 10010.

5. Without limitation, on information and belief, within this state, Defendant has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, on information and belief, Defendant has derived revenues from its infringing acts occurring within New York. Further, on information and belief, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in New York. Further, on information and belief, Defendant is subject to the Court's personal jurisdiction at least due to its sale of products and/or services within New York. Defendant has committed such purposeful acts and/or transactions in New York such that it reasonably should know and expect that it could be haled into this Court as a consequence of such activity.

6. Venue is proper in this district under 28 U.S.C. § 1400(b). On information and belief, Defendant has businesses in this district at 300 Park Avenue South, 10th Floor, New York, NY 10010. On information and belief, from and within this District Defendant has committed at least a portion of the infringements at issue in this case.

7. For these reasons, personal jurisdiction exists and venue is proper in this District under 28 U.S.C. § 1400(b).

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 9,501,480)

8. Plaintiff incorporates the above paragraphs herein by reference.

9. On November 22, 2016, United States Patent No. 9,501,480 ("the '480 Patent") was duly and legally issued by the United States Patent and Trademark Office. The '480 Patent is titled "Revenue-Generating Electronic Multi-Media Exchange and Process of Operating Same."

A true and correct copy of the '480 Patent is attached hereto as Exhibit A and incorporated herein by reference.

10. VCA is the assignee of all right, title, and interest in the '480 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '480 Patent. Accordingly, VCA possesses the exclusive right and standing to prosecute the present action for infringement of the '480 Patent by Defendant.

11. The invention relates to the field of creating and distributing media content, in particular, creating media content based upon submissions received on an electronic media exchange. At the time of the original invention in 1998, there was an Internet-centric problem that required a technical solution—how to develop a computer system that would allow remote contributors of electronic content to share and collaborate their content to develop new media content. The claimed invention, which predates modern crowdsourcing solutions, offers a unique, unconventional, and specially configured combination of “subsystems” in which to address the Internet-centric problem.

12. As set forth in the claims, the claimed invention has a collection of unconventional and particularly configured subsystems, including:

- “an electronic media submissions server subsystem,”
- “an electronic multimedia creator server subsystem,”
- “an electronic release subsystem,”
- “an electronic voting subsystem,” and
- their corresponding specialized databases.

13. Each of these subsystems are configured in a very specific (and not generic), unconventional and non-routine manner to offer the novel and non-obvious claimed invention. For example, claim 1 requires an “electronic media submissions database,” which is a subsystem

that receives media submissions from Internet users. This is not a generic database but rather a scalable database that must be able to receive, store, and manage multiple petabytes of multimedia data received from users all over the world. This is one of the many specialized databases required in the claim. In fact, the specification discloses the use of a sophisticated database management system known in the art at the time that was capable of handling data at this level, Oracle7. This type of database management system cannot operate on a generic computing system but rather requires specialized hardware and software.

14. As another example, the claim requires a specifically configured “electronic media submission server subsystem.” This subsystem is defined as specifically having:

- “one or more data processing apparatus,”
- “an electronic media submission database stored on a non-transitory medium,”
and
- “a submissions electronic interface.”

The “submissions electronic interface” is further specifically “configured” [1] “to receive electronic media submissions from a plurality of submitters over a public network, and [2] store the electronic media submissions in the electronic media submission database.” Further, “the electronic media submissions database” in this subsystem is further required to “store[] [1] data identifying the submitter and [2] data indicating content for each electronic media submission.” Collectively, the level of detail included in this very particular, well-defined, and unconventional subsystem makes clear that the claims include substantially more than the alleged abstract idea or merely performing an alleged abstract idea on a computer.

15. Similarly, the claim also requires a separate specifically configured “an electronic multimedia creator server subsystem.” The claim specifically defines how this second subsystem

interacts with other components including being “operatively coupled to the electronic media submissions server subsystem.” The claim also specifically defines this subsystem as “having”:

- “one or more data processing apparatus” and
- “an electronic creator multimedia database stored on a non-transitory medium.”

16. This subsystem is also specifically “configured [1] to select and [2] retrieve a plurality of electronic media submissions from the electronic media submissions database using an electronic content filter located on the electronic multimedia creator server.” The “filter” also includes a very specific algorithm of “being based at least in part on at least one of the one or more user attributes to develop multimedia content to be electronically available for viewing on user devices.” Even more detail is provided by requiring “the identification of the submitter [be] maintained with each selected and retrieved submission within the multimedia content.” Here again, collectively, the level of detail included in this very particular and well-defined and unconventional subsystem makes clear that the claims include substantially more than an alleged abstract idea or merely performing an alleged abstract idea on a computer.

17. The claim also includes “an electronic release subsystem,” which is well defined and not conventional or routine. The claim defines how this subsystem is “operatively coupled to the electronic multimedia creator server subsystem.” The claim also defines the components of this subsystem as having “one or more data processing apparatus” and being particularly “configured to make the multimedia content electronically available for viewing on one of more user devices.” These details, collectively, also make this very particular and well-defined and unconventional subsystem substantially more than an abstract idea or performing an abstract idea on a computer.

18. The claim also requires “an electronic voting subsystem,” which is well-defined, specific, and unconventional. This claimed subsystem has “one or more data processing apparatus” and is specifically “configured to enable a user to electronic vote for or electronically rate an electronically available multimedia content or an electronic media submission within a respective electronically available multimedia content.”

19. Claim 1 is a specific and discrete implementation. For example, the claim requires an “electronic content filter” located at the server, remote from end users, and customizable based on user attributes. As another example, the “electronic voting subsystem” at the time of the invention was novel and inventive and added sufficient inventive contributions to avoid a risk of preempting creating and distributing media content. It is possible to create and distribute media content without ever having to include a “voting” subsystem on what components should be included in such media content. The detailed configuration “to enable a user to vote for or electronically rate an electronically available multimedia content or an electronic media submission within a respective electronically available multimedia content” has the level of particularity that avoids any risk of preemption.

20. Furthermore, the very particular and specifically configured “electronic media creator subsystem” not only provides a detailed and unique physical structure and interrelationship with other claimed components, but also includes a very specific configuration that is not conventional or routine. The claims make clear the interrelationship of the “electronic multimedia creator server subsystem” with respect to “the electronic media submission server subsystem” which must be “operatively coupled” thereto. The claims also provide detail on how the “electronic media creator subsystem” is “configured” “to select and retrieve a plurality of electronic media submissions from the electronic media submission database using an electronic

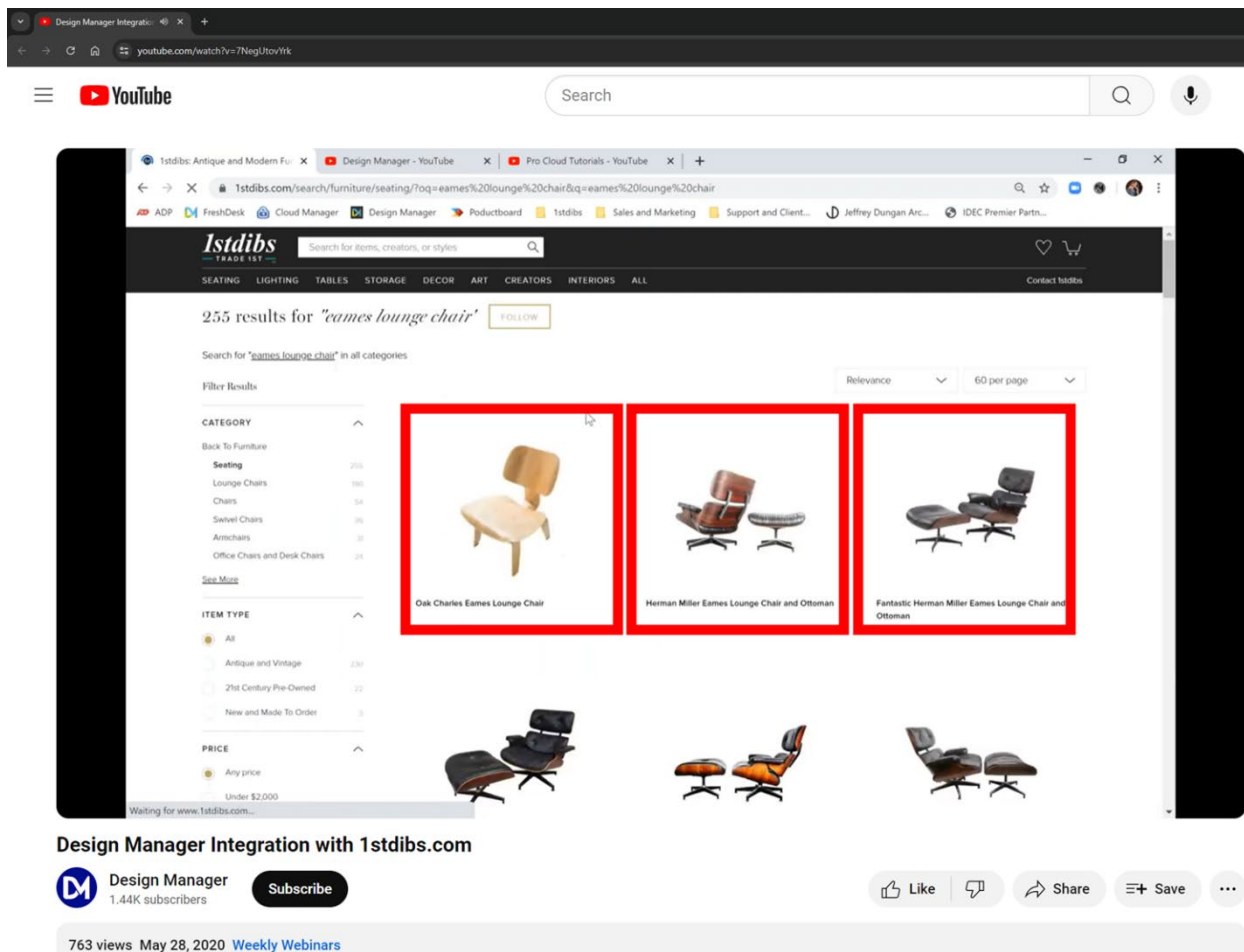
filter.” They also provide detail on how the “electronic filter” is “based at least in part on at least one of the one or more user attributes” and specifies that “the identification of the submitter is maintained with each selected and retrieved submission within the multimedia content.”

21. These arguments overcame a patent eligibility rejection under 35 U.S.C. §101 of the claim at issue during the prosecution of the ‘480 patent before the United States Patents and Trademark Office.

22. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing claim 1 of the ‘480 Patent in New York, and elsewhere in the United States, by employing a computer-based system using <https://www.1stdibs.com/> (“Accused Instrumentality”) (e.g., <https://www.1stdibs.com/>).

23. 1stDibs uses a computer-based system for its Accused Instrumentality, to enable user-sellers to create personalized seller profiles containing multimedia content and publish multimedia content in the form of item listings containing associated image content and textual content. User-Seller profiles may showcase information about the seller and other listings of the seller, each of which include multimedia content in the form of image and textual content. Item listings containing multimedia content may be shown to other users based on, *inter alia*, user preferences and attributes of the user-seller or the item listed. 1stDibs, during the relevant time period, took advantage of multiple cloud server providers for the Accused Instrumentality, as discussed above, as well as scalability within its cloud server providers, employing separate server subsystems for all its meaningfully different functions. 1stDibs, during the relevant time period, took advantage of multiple cloud server providers for the Accused Instrumentality, as discussed above, as well as scalability within its cloud server providers, employing separate server subsystems for all its meaningfully different functions. 1stDibs uses, and has used during the

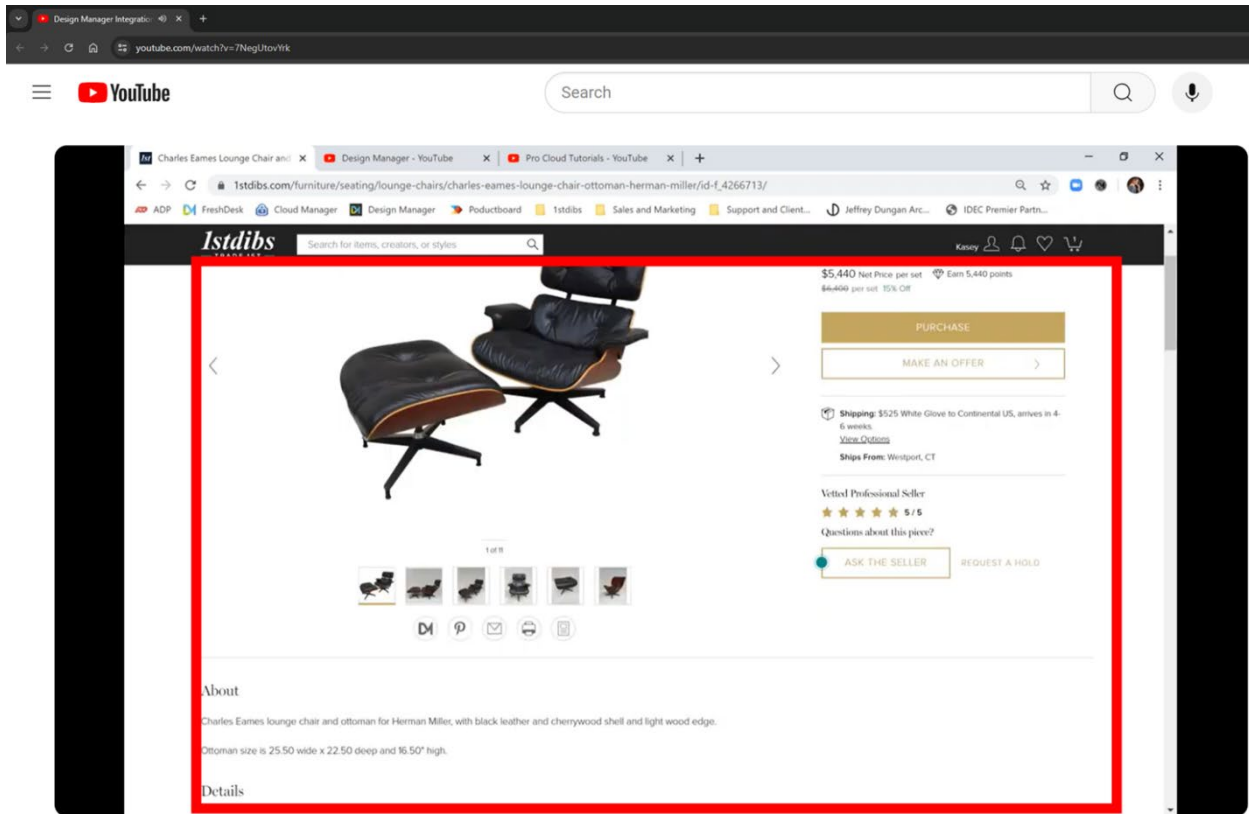
relevant time period, numerous different networks and providers for, *inter alia*, content management systems, web servers, web hosting, data centers, proxy certificates, SSL certificates, traffic analysis, advertising, and tagging, thereby using separate server subsystems for all its meaningfully different functions, such as those indicated below.



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

The screenshot shows a YouTube video player with a browser window in the background. The browser window displays the 1stdibs.com website. The main content of the browser window is a product page for a "Charles Eames Lounge Chair and Ottoman for Herman Miller". The product image, which shows a black leather chair and ottoman, is enclosed in a red rectangular border. To the right of the image, the product name is listed, along with the price "\$5,440 Not Price per set" and a "PURCHASE" button. Below the price, there are shipping details and a "Vetted Professional Seller" badge with a 5/5 star rating. The video player below the browser window shows the channel name "Design Manager" with 1.44K subscribers and a "Subscribe" button. The video has 763 views and was posted on May 28, 2020. The video title is "Design Manager Integration with 1stdibs.com".

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).



Design Manager Integration with 1stdibs.com

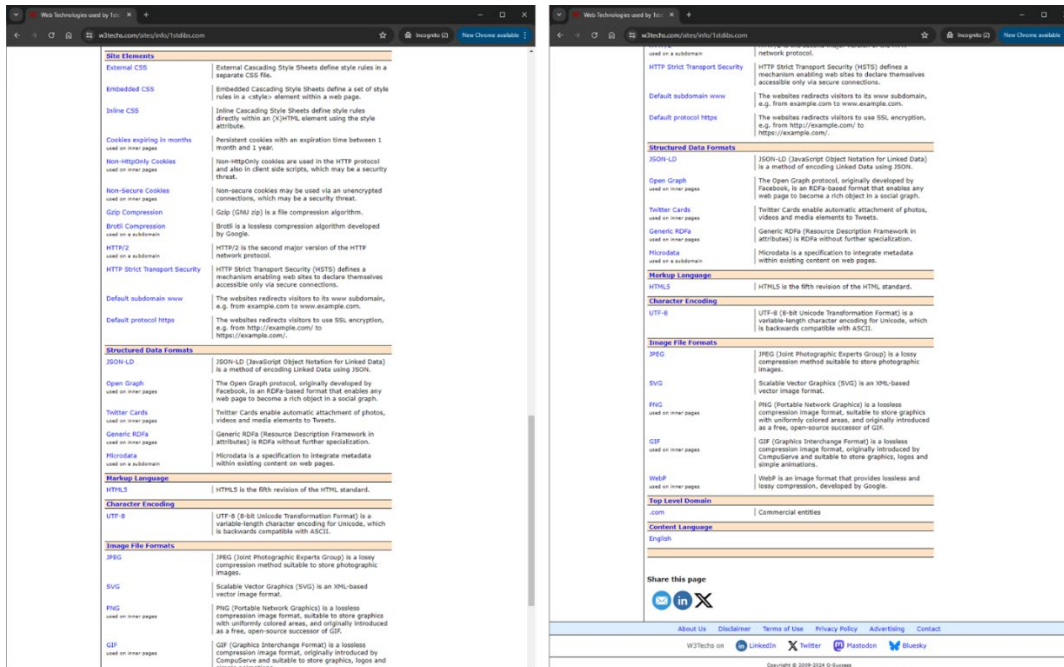
Design Manager
1,44K subscribers

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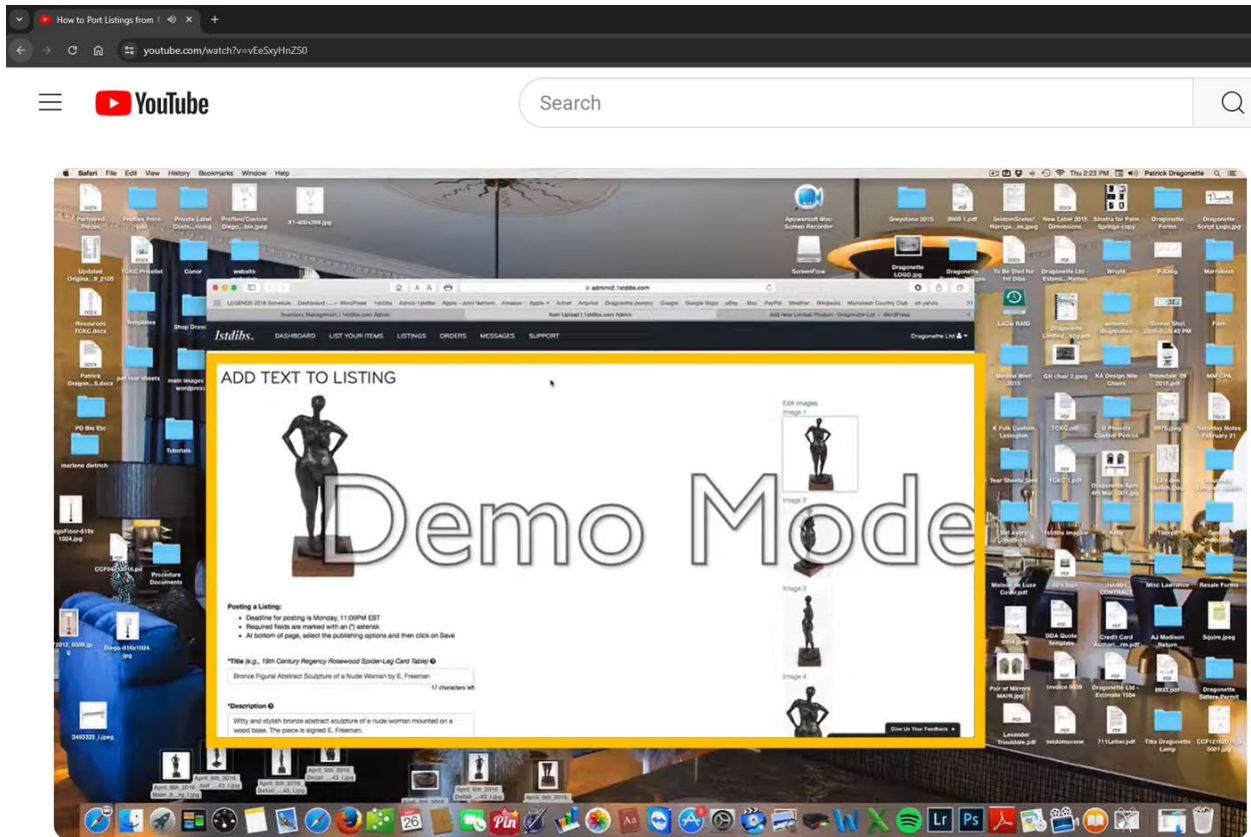
763 views May 28, 2020 Weekly Webinars

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).



(*E.g.*, <https://w3techs.com/sites/info/1stdibs.com>).

24. The Accused Instrumentality includes an electronic media submissions server subsystem, having one or more data processing apparatus and an electronic media submissions database stored on a non-transitory medium in order to process and store received submissions from a plurality of users (such as user-sellers), for example content pertaining to respective item listings submitted by user on the Accused Instrumentality, as discussed and shown for example in connection with the above discussion. For example, the submissions pertaining to submitting an item listing may include, *e.g.*, photo and/or textual content. The submissions are provided to the Accused Instrumentality via a submissions electronic interface, *e.g.*, a web-based content portal, accessible for example by logging in and selecting options to upload such content or import content, configured to receive such electronic media, from a plurality of submitters over a public network (*e.g.*, the Internet) and stored, via an uploading process, in said electronic media submissions database for use in distribution to other users of the Accused Instrumentality.



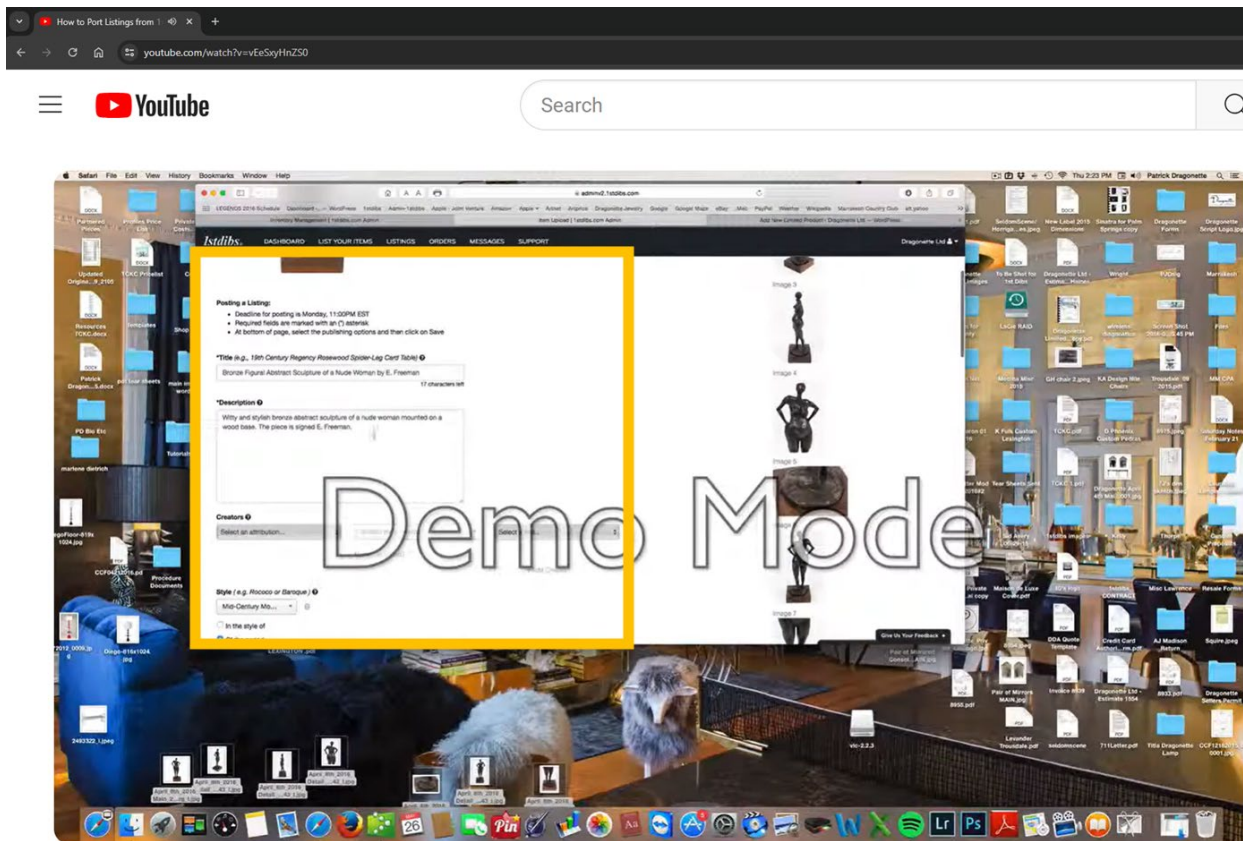
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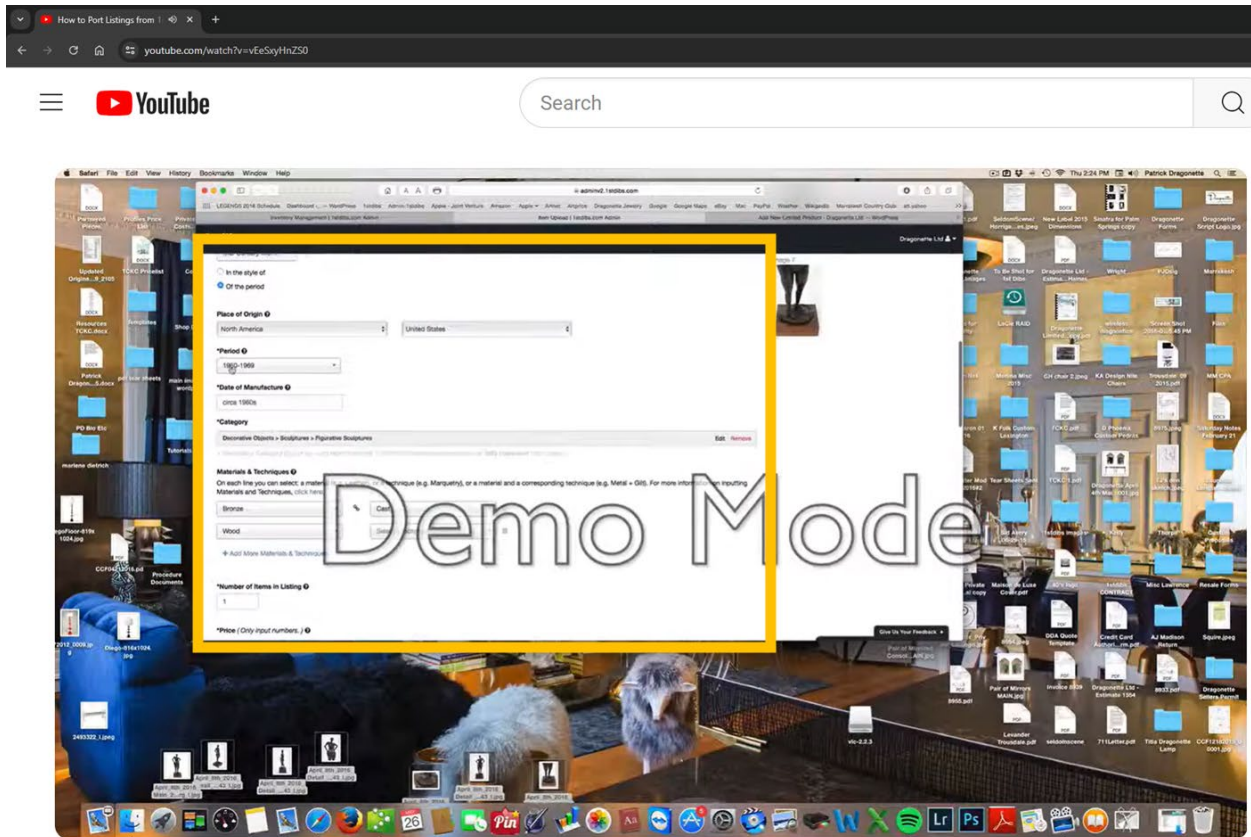
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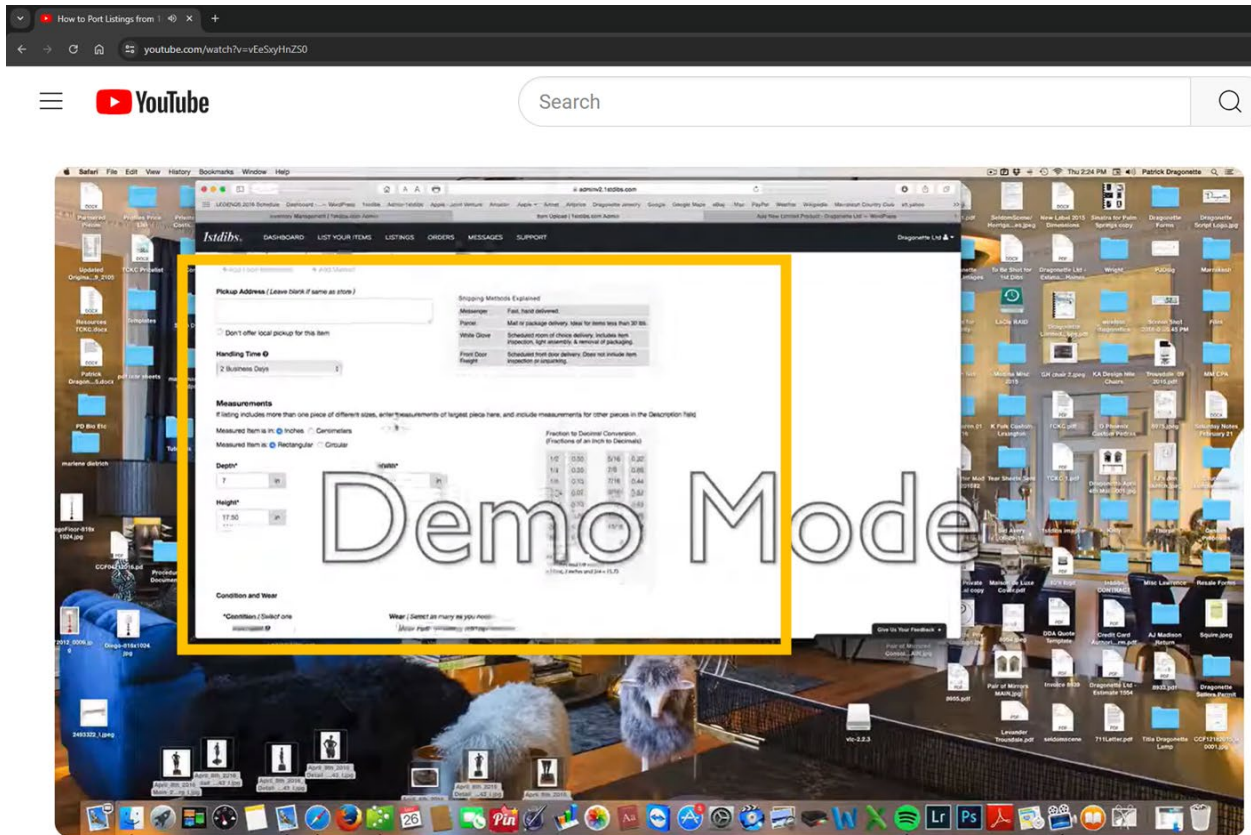
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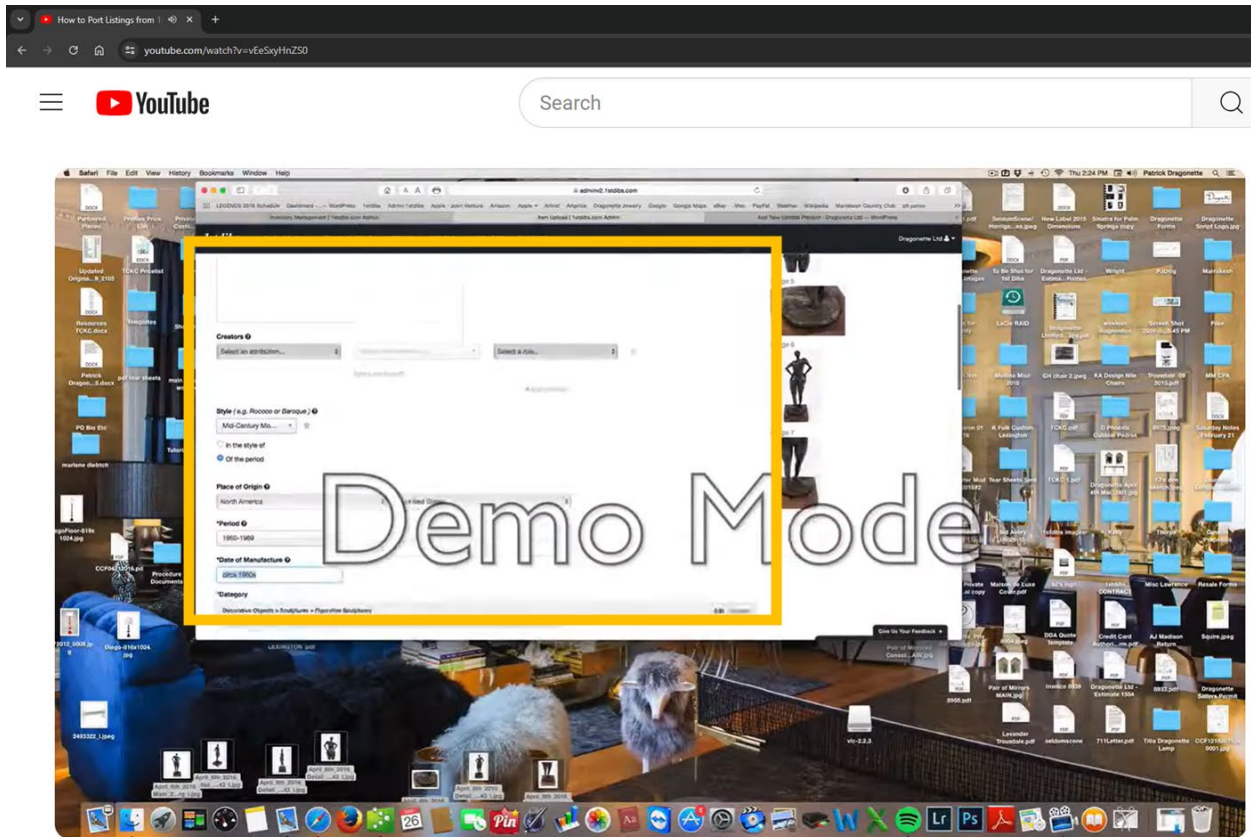
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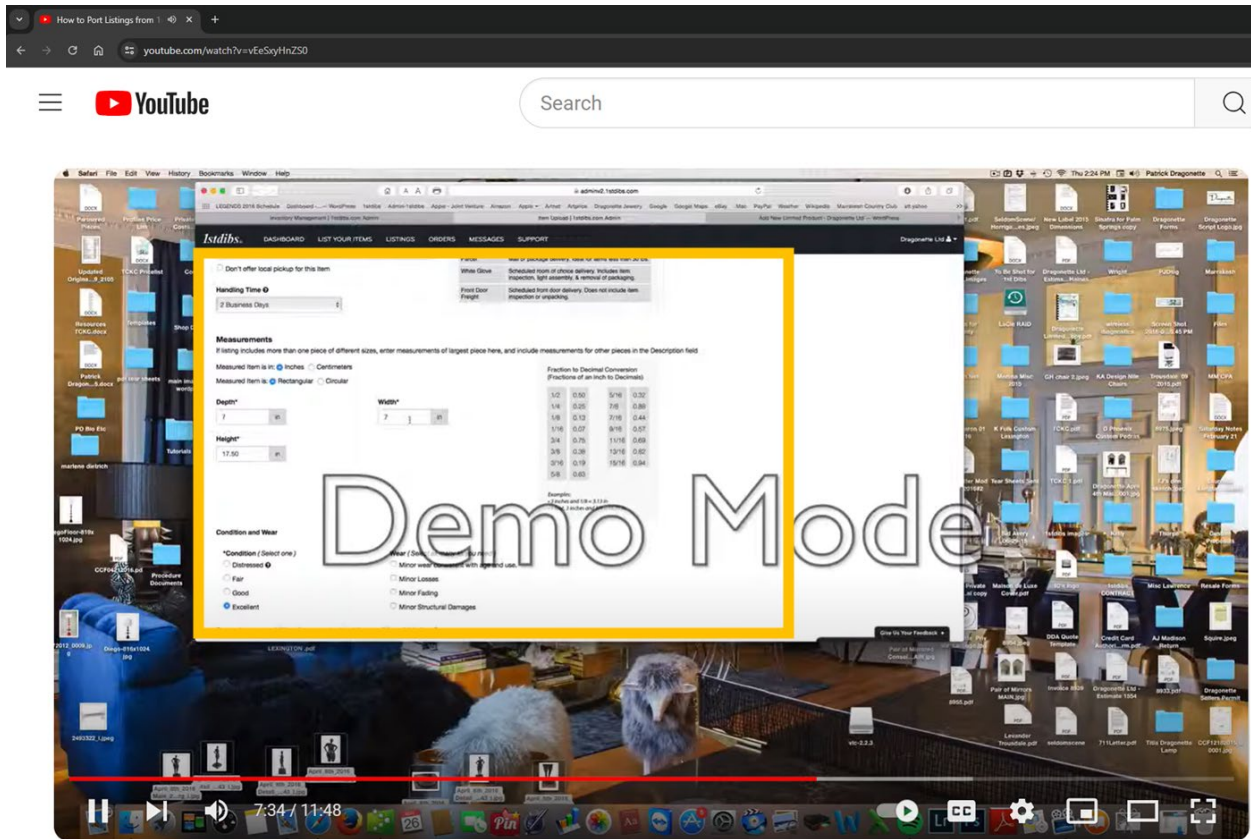
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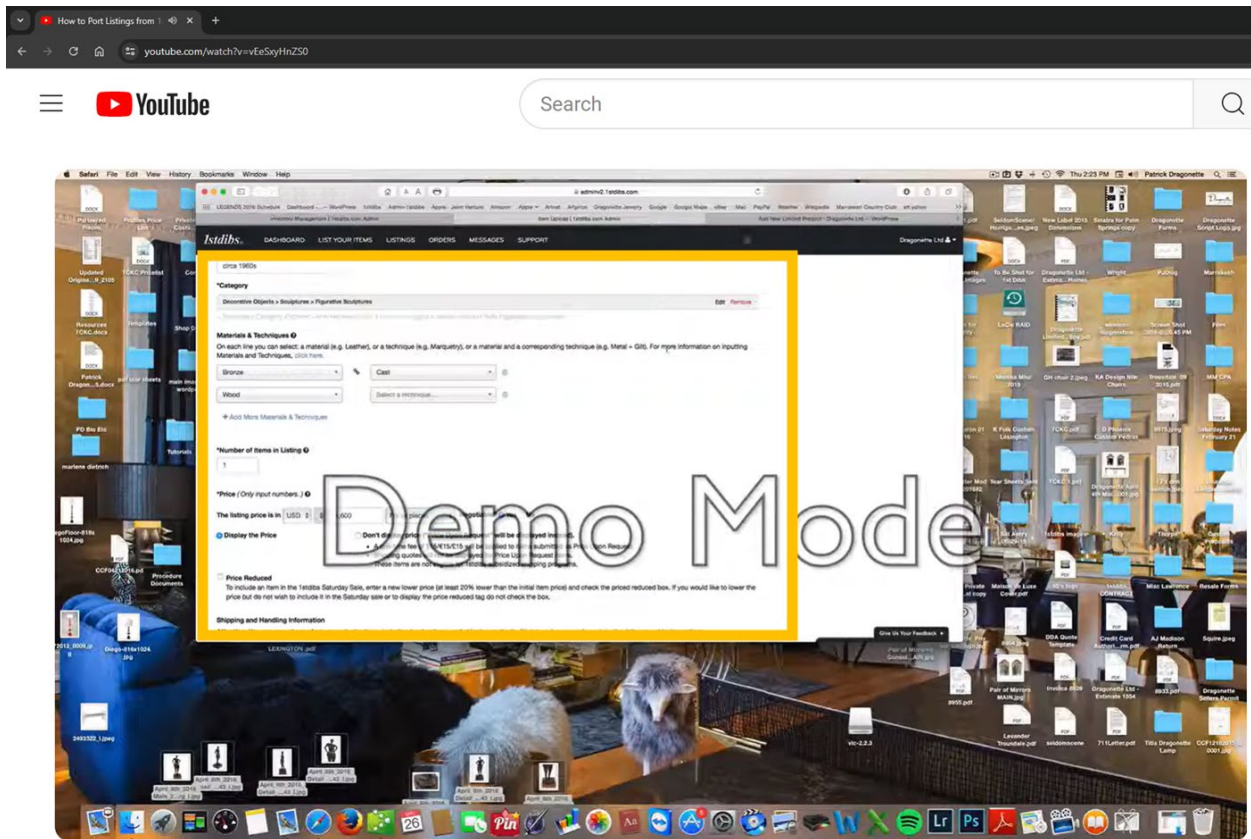
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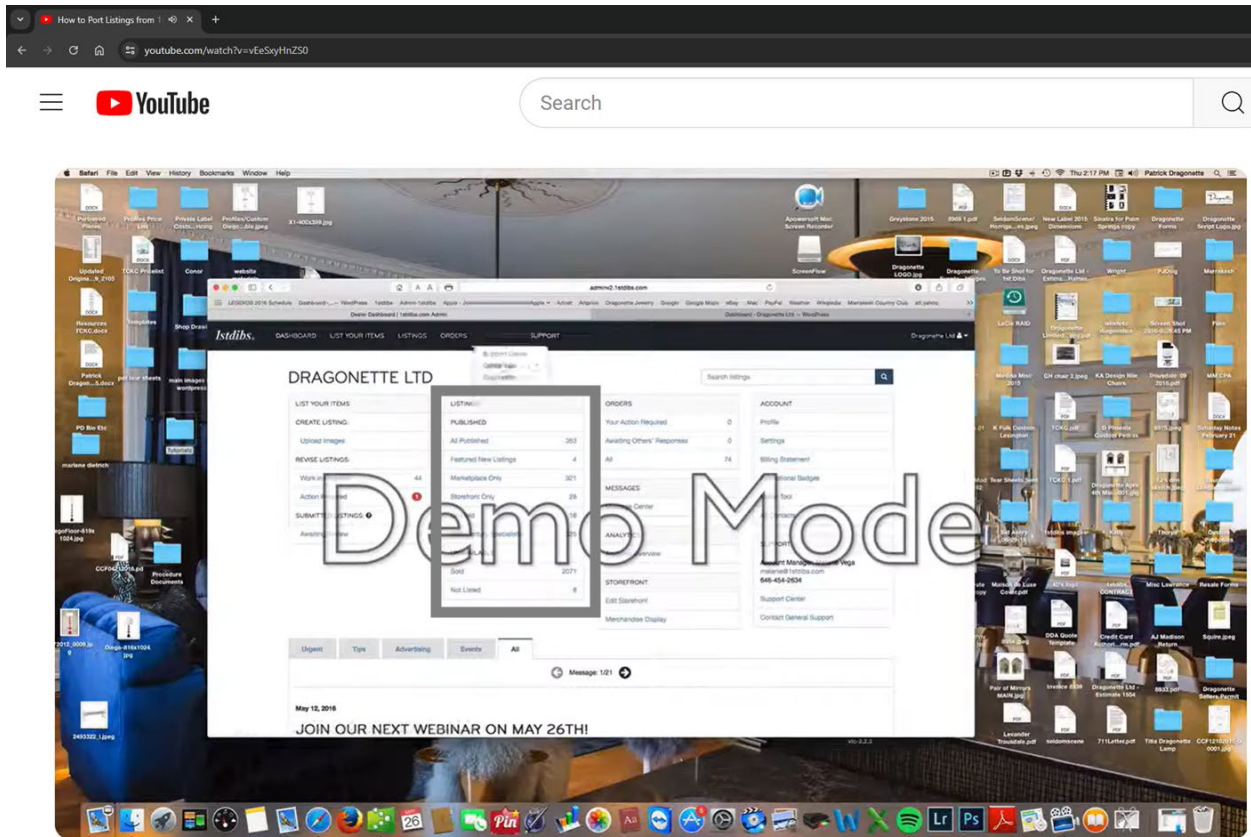
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



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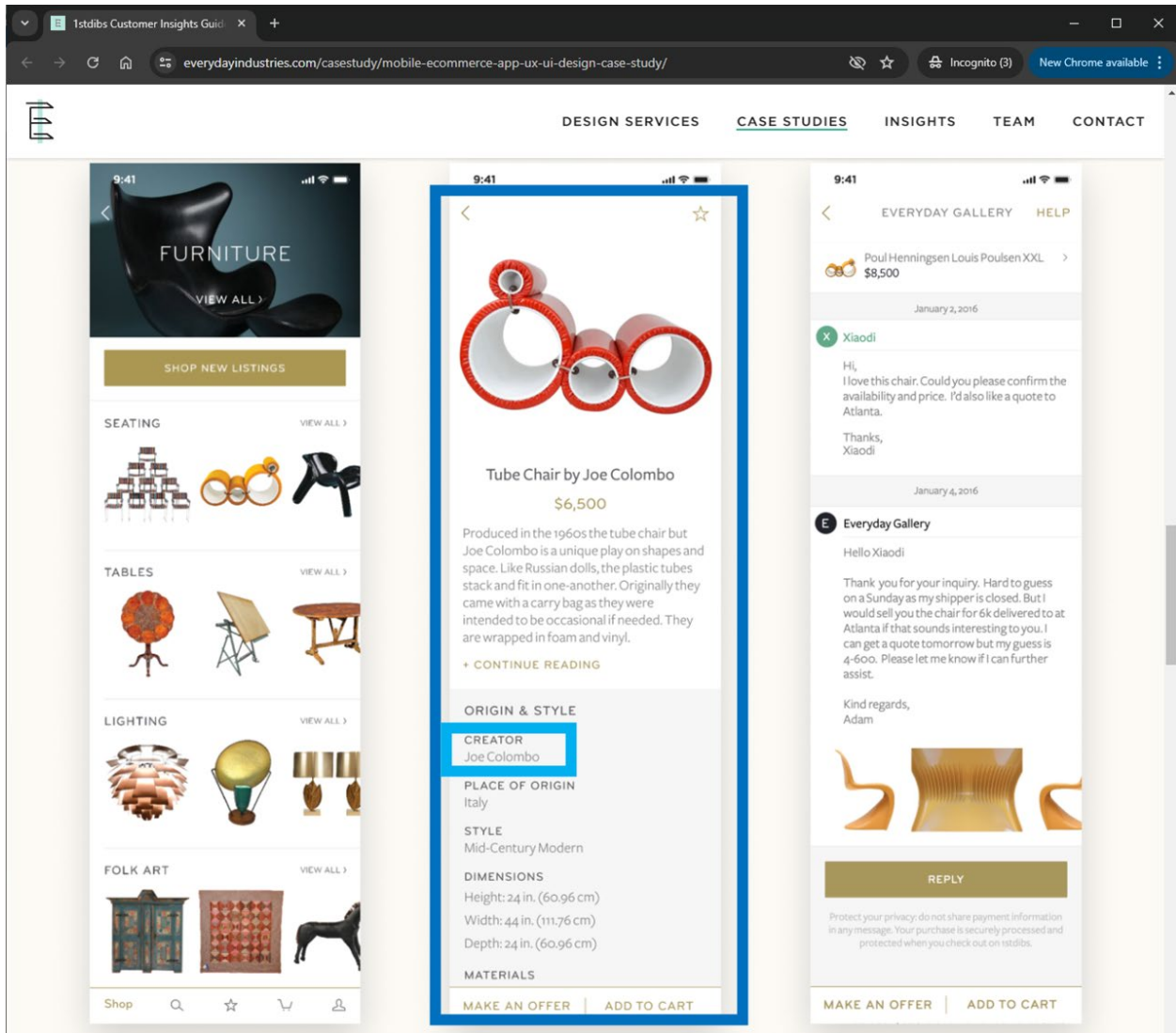
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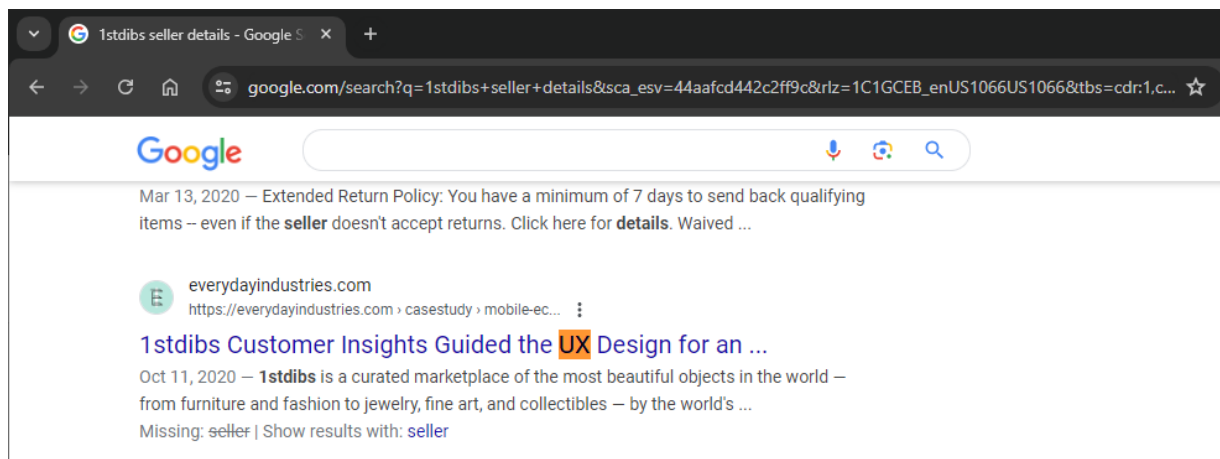
25. The electronic media submissions database of the Accused Instrumentality used by 1stDibs which stores the submissions further stores data identifying the submitter and data indicating content for each electronic media submission. As shown below, data identifying the user (submitter) includes, e.g., a name. Data indicating content for each electronic media submission includes photo, audio and/or textual content.

The screenshot shows a YouTube video player with a browser window in the background. The browser window displays the 1stdibs.com website for a Charles Eames Lounge Chair and Ottoman for Herman Miller. The product is priced at \$5,440 (net price per set, down from \$6,400 per set, a 15% discount). The page includes a 'PURCHASE' button, a 'MAKE AN OFFER' button, shipping information (\$25 White Glove to Continental US, arrives in 4-6 weeks), and a 'Vetted Professional Seller' badge with a 5/5 star rating. The video player shows the channel 'Design Manager' with 1.44K subscribers and 763 views from May 28, 2020. The video title is 'Design Manager Integration with 1stdibs.com'.

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(E.g., <https://everydayindustries.com/casestudy/mobile-ecommerce-app-ux-ui-design-case-study/>).



(E.g., https://www.google.com/search?q=1stdibs+seller+details&sca_esv=44aafcd442c2ff9c&rlz=1C1GCEB_enUS1066US1066&tbs=cdr:1,cd_min:1/1/2017,cd_max:5/1/2021&ei=wHKLZrK0K6ji5NoPstq5qA0&start=10&sa=N&sstk=AagrsuglhtFnc07f1btO-VI-N2pQWotXPd0hLzEsT8fgSub9gcWHZ4OP1eakz57CXPzqoBVCwJTeL2ZpTiq7-VVbo-VGWIsmNwIWUd8MDeplyoINXu8KUB8-7FIUuDmyTni0Zmb5TRuQg9afgFeefL1bPEV8m3NRVI&ved=2ahUKEwiylPT91JaHAXUoMVkFHTJtDtU4FBDy0wN6BAgLEAY&biw=2560&bih=1313&dpr=1).

Foot Stool in Red Offered by Vladimir Kagan Design Group

Items Similar to Foot Stool in Red Offered by Vladimir Kagan Design Group

Home / Furniture / Seating / Ottomans and Poufs

Foot Stool in Red Offered by Vladimir Kagan Design Group

\$2,970

PURCHASE

Shipping: \$549 In-Home Delivery Details

The 1stDibs Promise: Authenticity Guarantee, Money-Back Guarantee, 24-Hour Cancellation Details

Questions about this piece:
Vetted Professional Seller 5.0 ★★★★★

ASK THE SELLER

Item Details Manufacturer Seller Information Shipping & Returns The 1stDibs Promise

Vladimir Kagan Foot Stool in Red. Pairs with Multi-position Reclining chair.

Vladimir Kagan (1927-2016) emigrated to the United States from Germany in 1938. He studied Architecture at Columbia University before joining his father, a master cabinetmaker, to apprentice in his

Creator: Vladimir Kagan (Manufacturer, Designer)

Dimensions: Height: 17 in (43.18 cm)
Width: 19 in (48.26 cm)
Depth: 20 in (50.8 cm)

Production Type: New & Custom (One of a Kind)

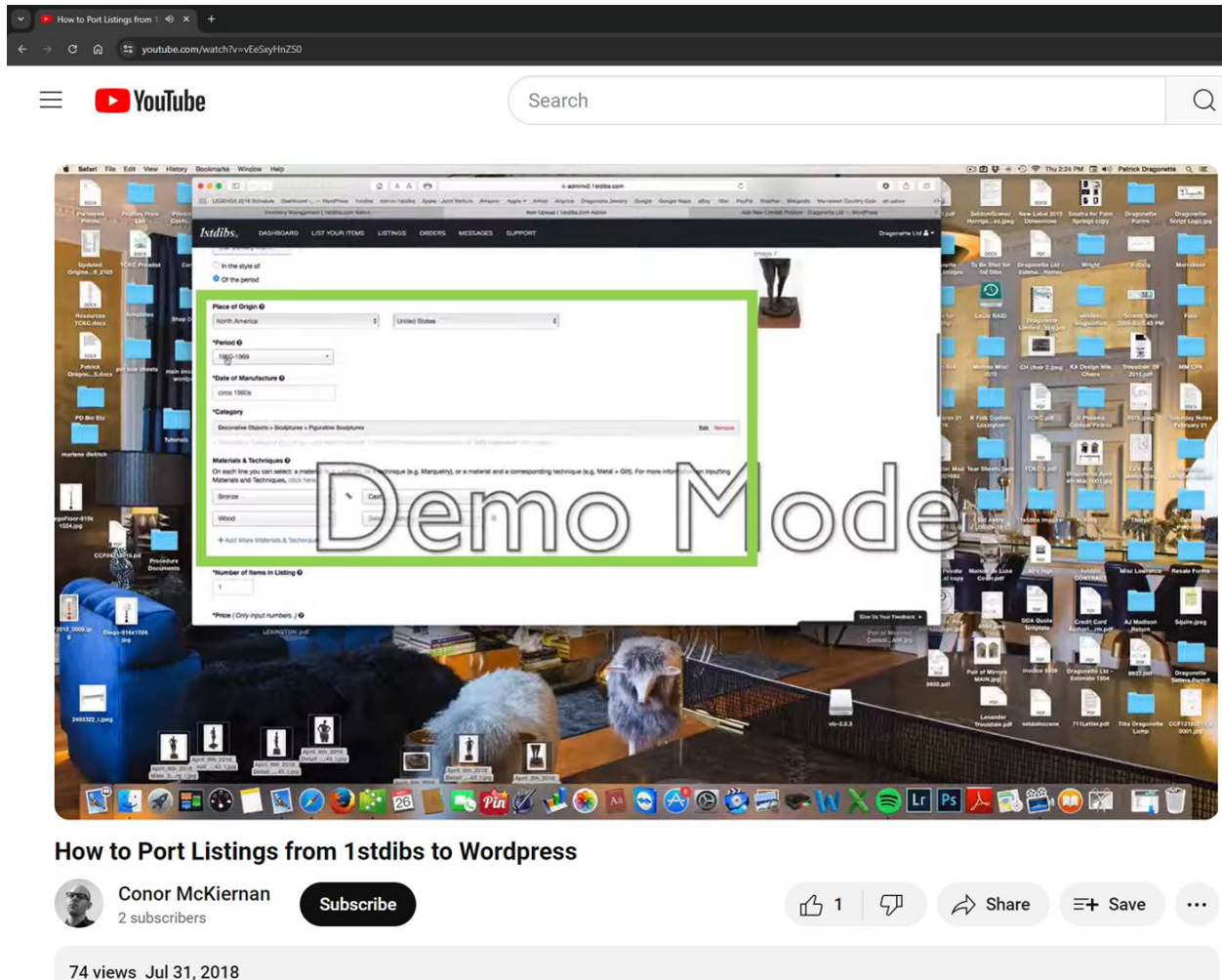
Estimated Production Time: Available Now

Condition: Good
Ships from Kagan warehouse.

(E.g., https://www.1stdibs.com/furniture/seating/ottomans-poufs/foot-stool-red-offered-vladimir-kagan-design-group/id-f_11041073/).

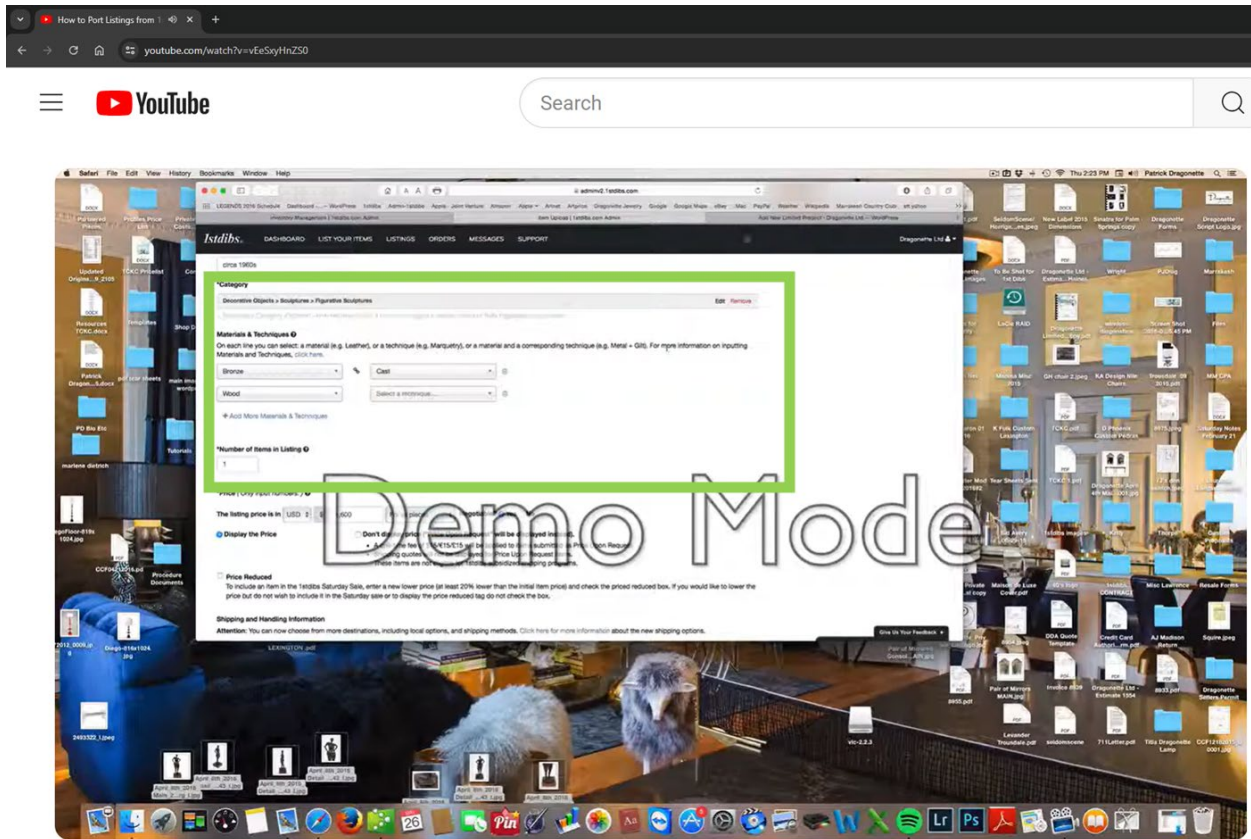
26. Individual users can create a seller profile and post item listings on 1stDibs's Accused Instrumentality, which are stored in a user database stored in memory. Seller accounts and item listings are available to other users through the Accused Instrumentality, for example as

discussed above. The user attributes of users who create a profile and/or post item listings include, e.g., item dimensions, design style, materials used, place of origin, period, production type, condition, and the like as shown for example below.



The image shows a YouTube video player. The video title is "How to Port Listings from 1stdibs to Wordpress" by user "Conor McKiernan" (2 subscribers). The video has 74 views and was uploaded on Jul 31, 2018. The video content is a screen recording of a computer desktop. The desktop background is a photograph of a room with a blue armchair and a white dog. A window in the foreground displays the 1stdibs website's listing form. The form fields are highlighted with a green border and include: "Place of Origin" (North America, United States), "Period" (1800-1999), "Date of Manufacture" (circa 1900s), "Category" (Decorative Objects + Sculptures + Figurative Sculptures), "Materials & Techniques" (Bronze, Wood), "Number of Items in Listing" (1), and "Price (Only Input Numbers)". A large "Demo Mode" watermark is overlaid on the form. The desktop also shows various icons and a dock with application icons like Safari, Photoshop, and Lr.

(E.g., <https://www.youtube.com/watch?v=vEeSxyHnZS0>).



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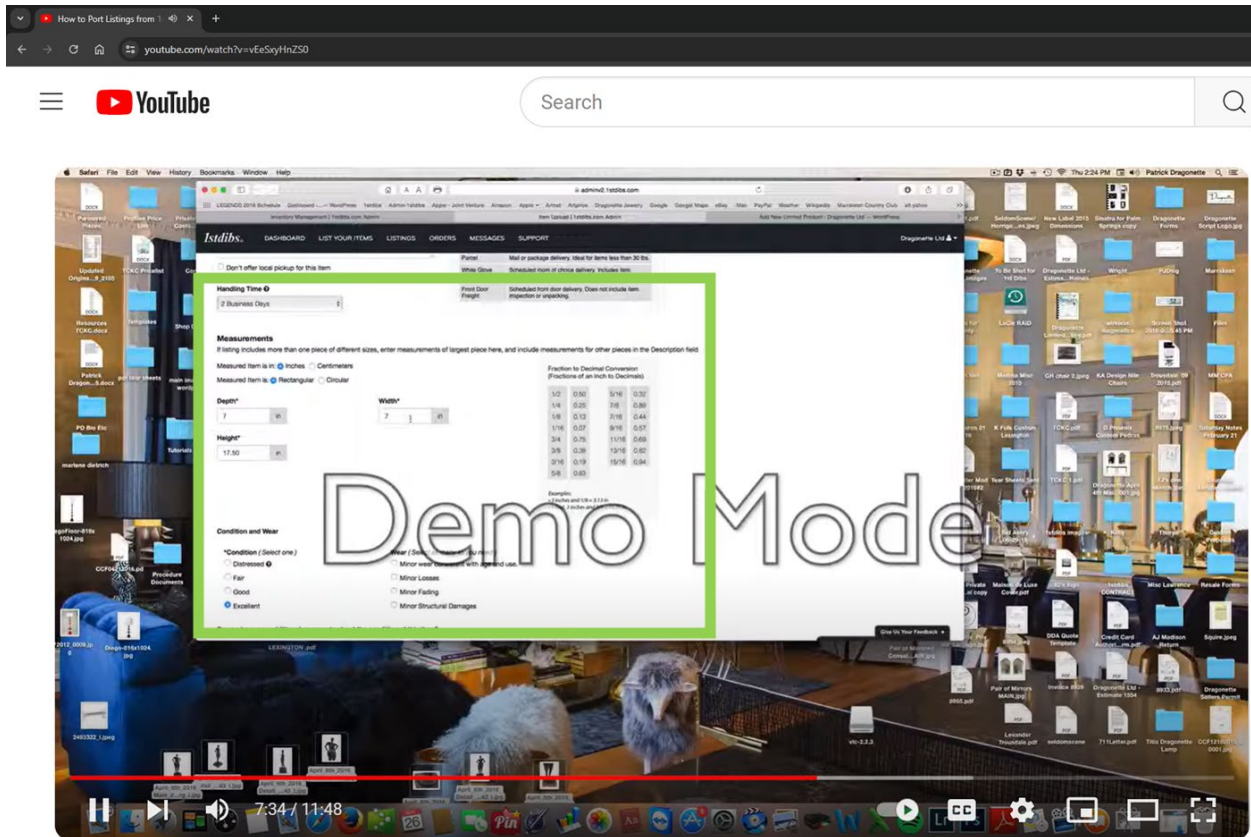
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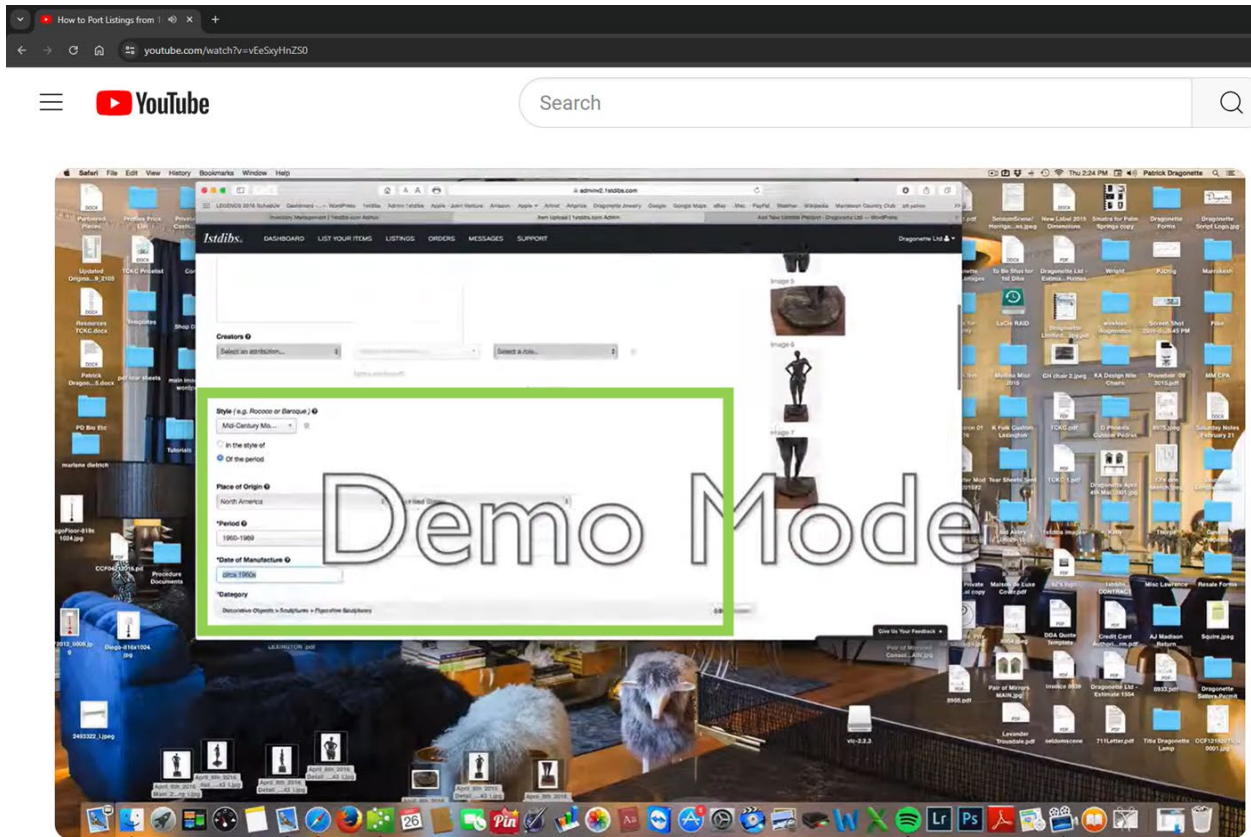
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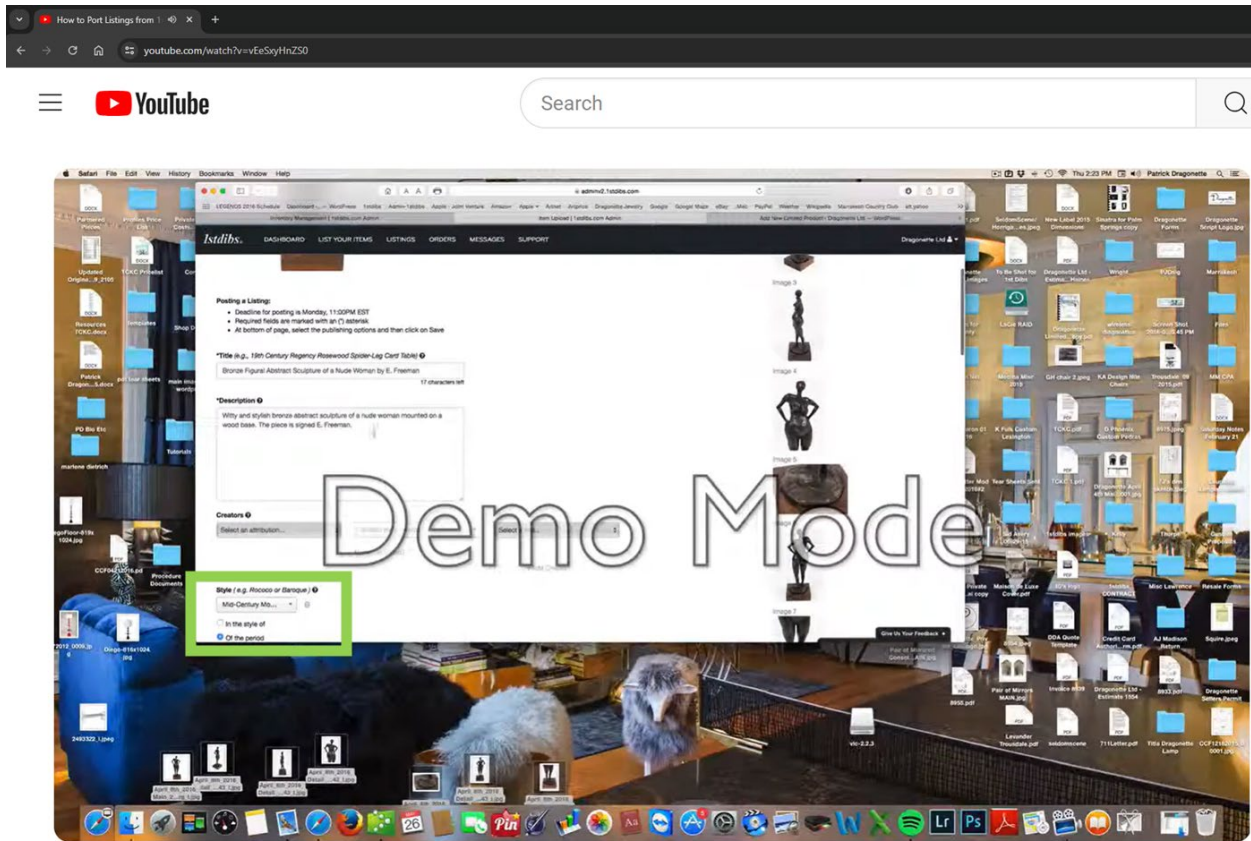
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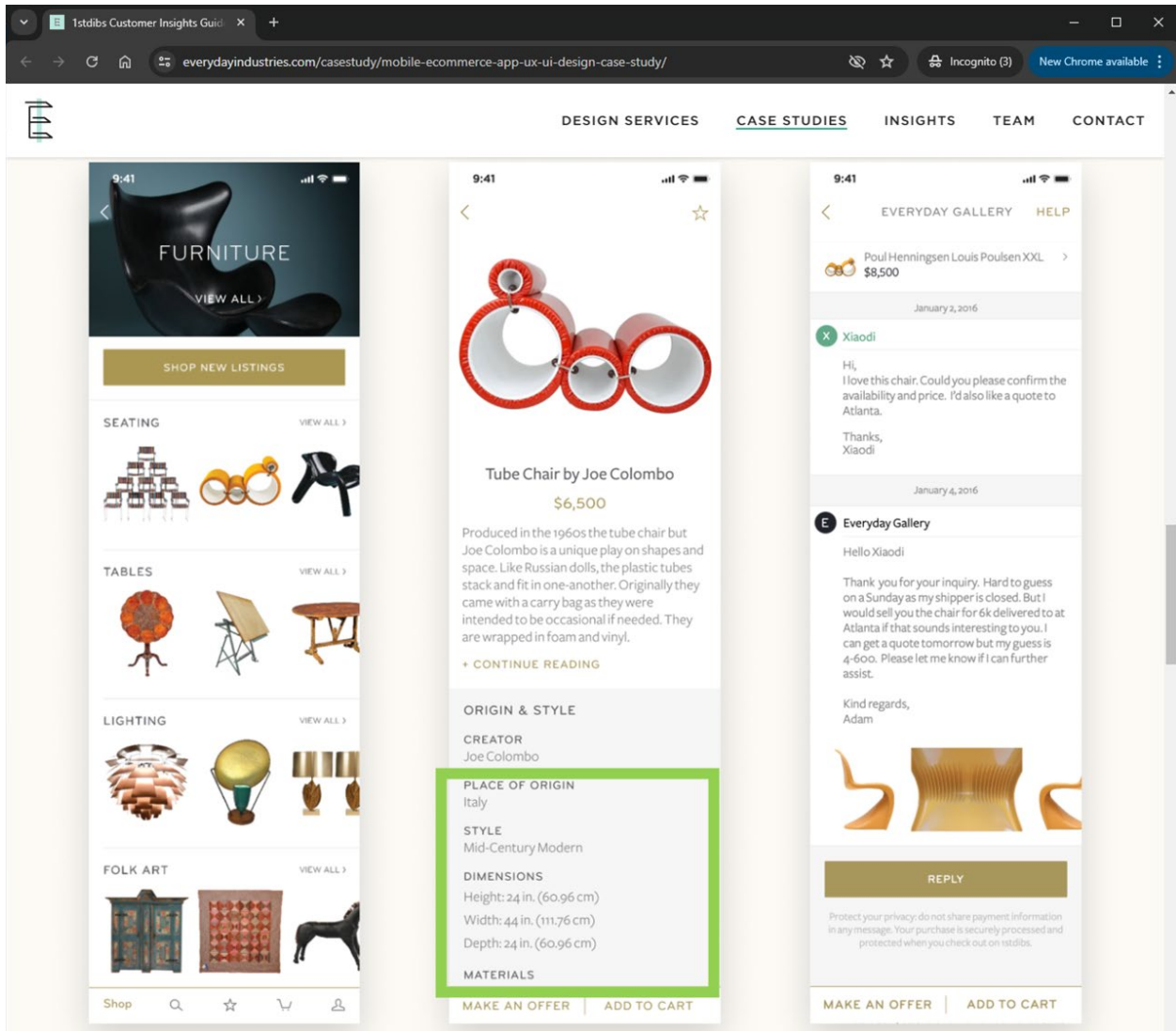
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(E.g., <https://everydayindustries.com/casestudy/mobile-ecommerce-app-ux-ui-design-case-study/>).

1stDibs.com/furniture/seating/ottomans-poufs/foot-stool-red-offered-vladimir-kagan-design-group/id-f_11041073/

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Items Similar to Foot Stool in Red Offered by Vladimir Kagan Design Group

Home / Furniture / Seating / Ottomans and Poufs

Foot Stool in Red Offered by Vladimir Kagan Design Group

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1 of 13

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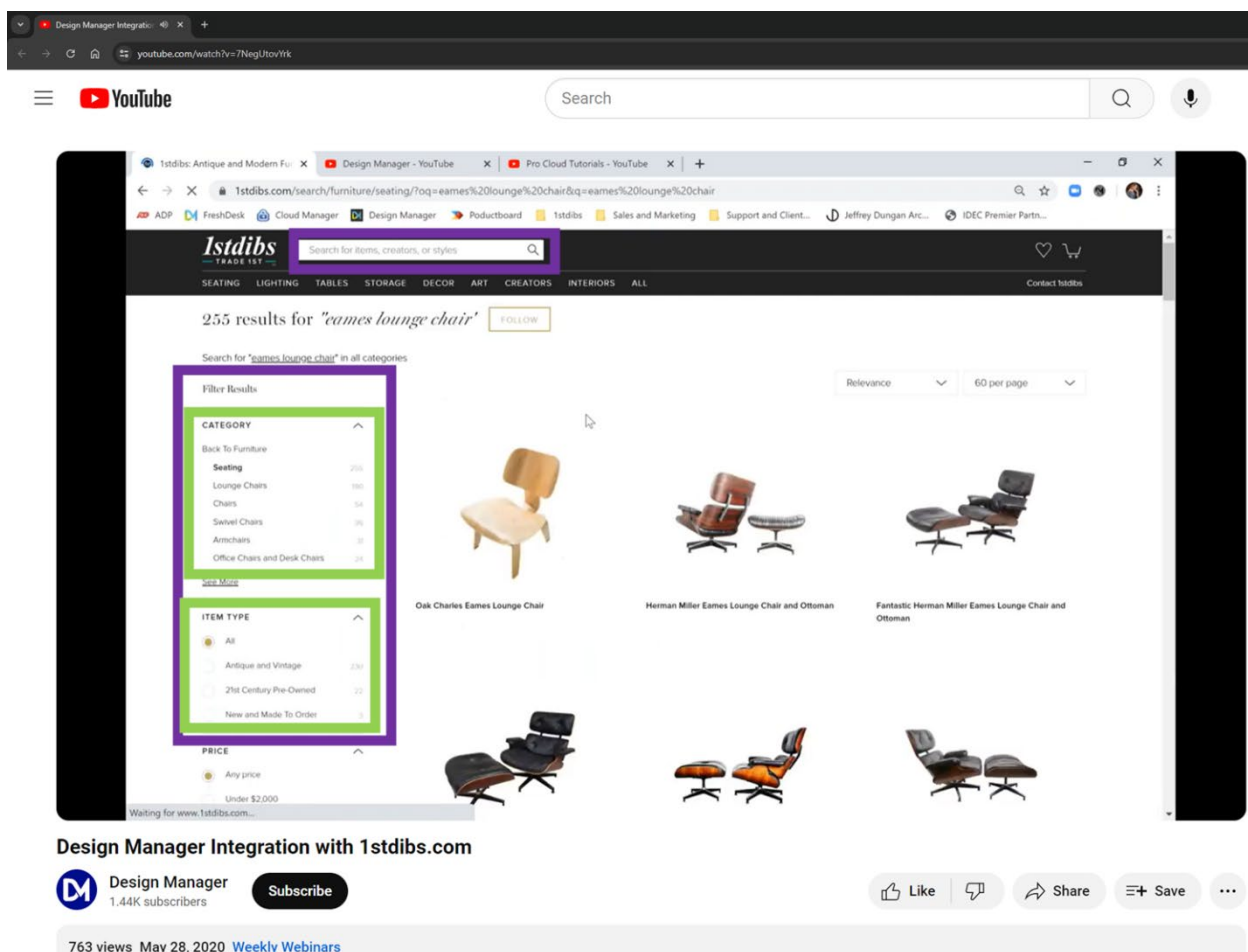
Estimated Production Time: Available Now

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Ships from Kagan warehouse.

(E.g., https://www.1stdibs.com/furniture/seating/ottomans-poufs/foot-stool-red-offered-vladimir-kagan-design-group/id-f_11041073/).

27. The Accused Instrumentality employs an electronic multimedia creator server subsystem operatively coupled to the electronic media submissions server subsystem, necessarily having one or more data processing apparatus in order to manage content, and an electronic creator multimedia database stored on a non-transitory medium, configured to select and retrieve a

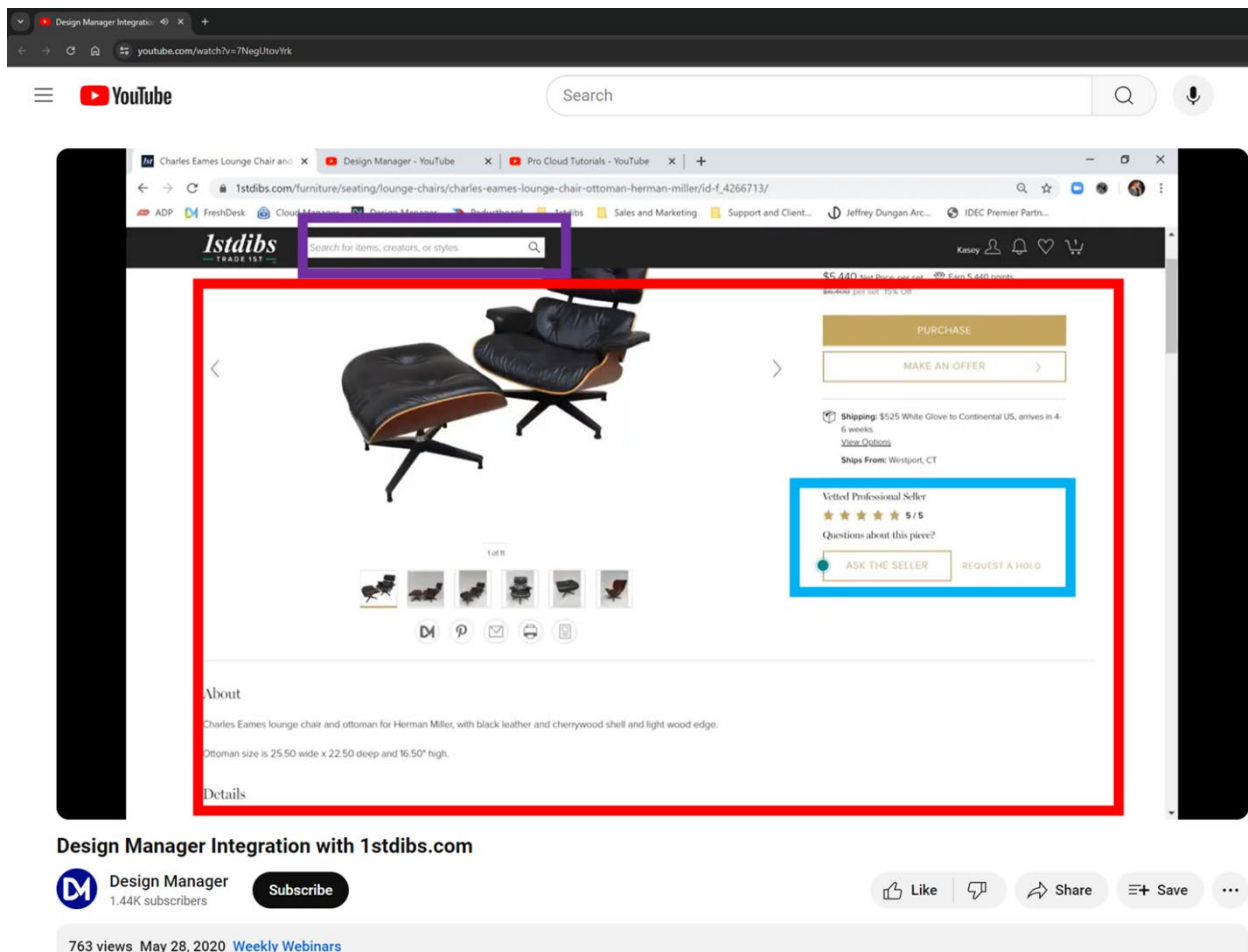
plurality of electronic media submissions (e.g., item listings) from the electronic media submissions database using an electronic content filter located on the electronic multimedia creator server. For example with respect to an item listing, as can be seen below, such electronic content filter as is used by 1stDibs is based at least in part on at least one of the one or more user attributes, (e.g., based on, *inter alia*, item type and category) which in turn affect which electronic media submissions, e.g., the associated item, appear to the user as shown and discussed for example below. 1stDibs uses function-specific subsystems, for example, as shown below.



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

28. Such electronic content filter is used by the Accused Instrumentality to develop multimedia content (e.g., the profiles and/or various content as discussed above) associated with

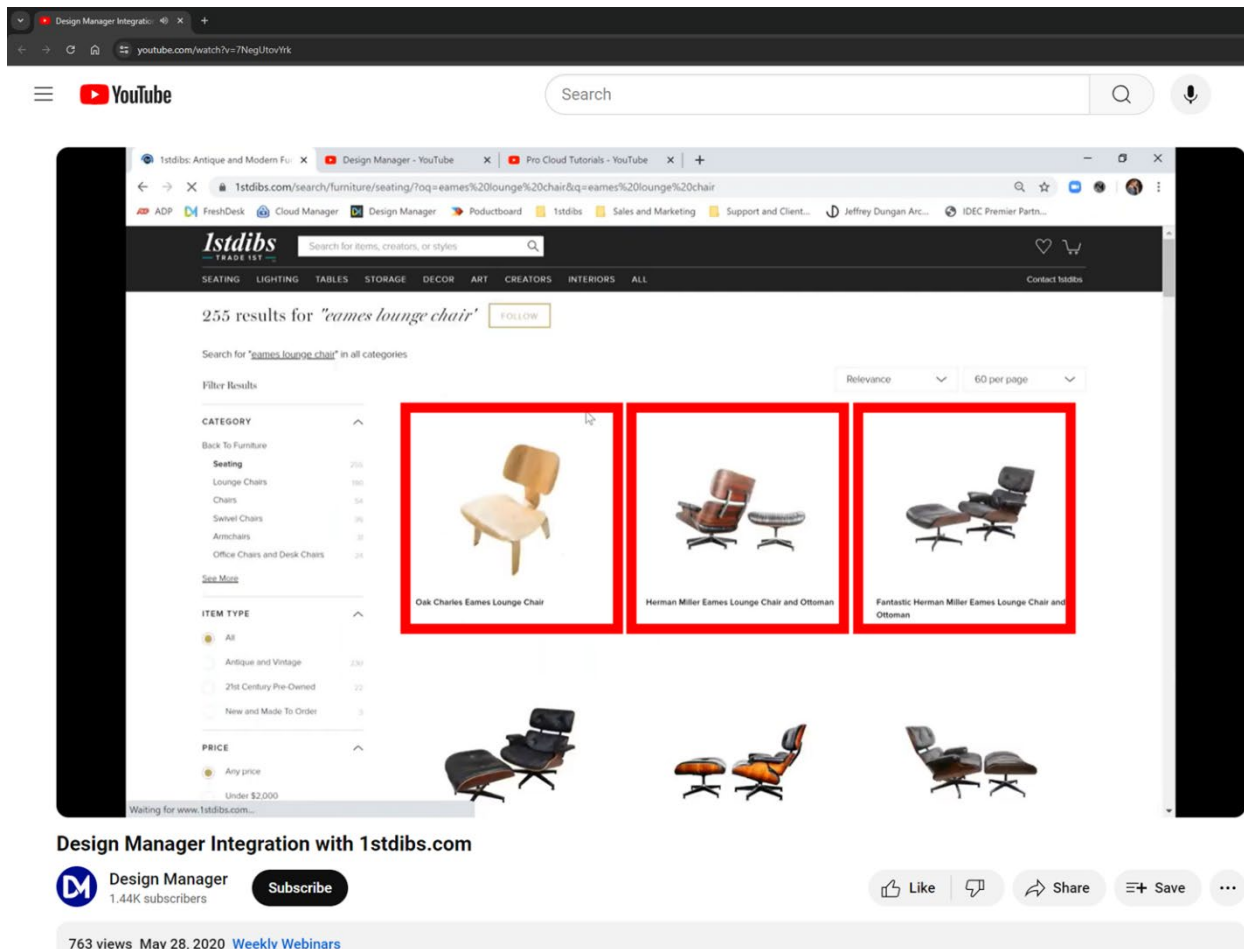
the user (submitter) to be electronically available for viewing on user devices (e.g., devices such as computers and smart phones incorporating browsers or apps) wherein the identification of the submitter (e.g., a user's name) is maintained with each selected and retrieved submission within the multimedia content, for example as shown below.



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

29. The Accused Instrumentality employs an electronic release subsystem operatively coupled to the electronic multimedia creator server subsystem, necessarily having one or more data processing apparatus in order to serve multimedia profile and/or item listings with associated photo, and textual content to users, configured to make the multimedia content electronically available for viewing on one or more user devices. For example, as shown below, multimedia

content associated with an item listing is provided on various user devices (e.g., a computer or other device with a web browser or app) in response to a user logging in to the Accused Instrumentality. 1stDibs uses function-specific subsystems, for example, as shown below.



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

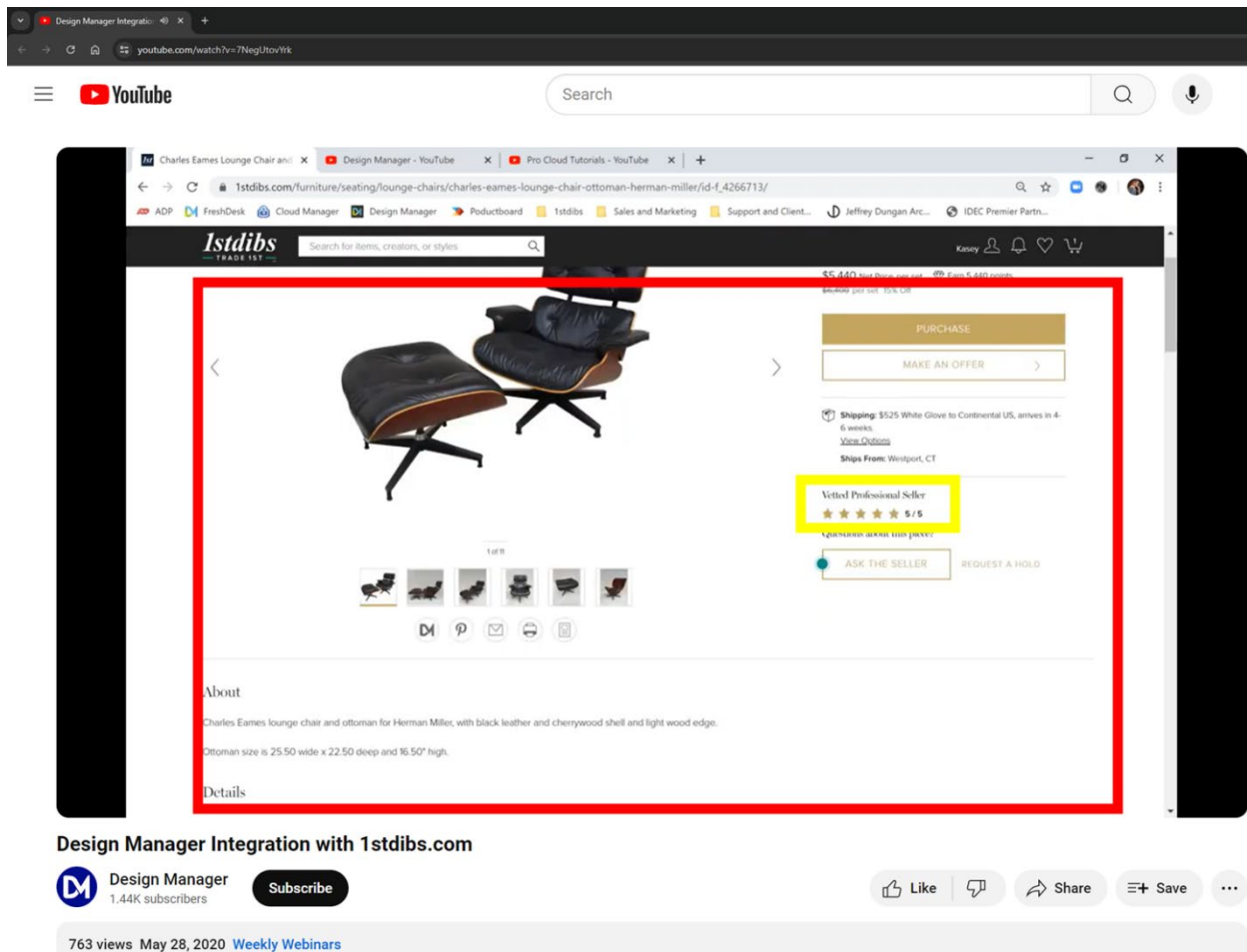
The screenshot shows a YouTube video player displaying a webpage from 1stdibs.com. The webpage features a product listing for a "Charles Eames Lounge Chair and Ottoman for Herman Miller". The product image, showing a black leather chair and ottoman, is highlighted with a red rectangular border. To the right of the image, the product name is listed, along with a price of \$5,440 (marked as "Not Price per set" and "15% OFF" from a "Was \$6,400 per set"). Below the price are buttons for "PURCHASE" and "MAKE AN OFFER". Further down, shipping information is provided: "Shipping: \$525 White Glove to Continental US, arrives in 4-6 weeks." and "Ships From: Westport, CT". The seller is identified as a "Vetted Professional Seller" with a 5/5 star rating. Below the product image, there are several small thumbnail images showing different views of the chair. The video player interface includes a search bar, a channel name "Design Manager" with 1.44K subscribers, and a "Subscribe" button. The video has 763 views and was posted on May 28, 2020, with the title "Design Manager Integration with 1stdibs.com".

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

The screenshot displays a YouTube video player showing a product listing on the 1stdibs.com website. The product is a Charles Eames lounge chair and ottoman by Herman Miller. The listing features a main image of the chair and ottoman, a price of \$5,440 (reduced from \$6,400), a 'PURCHASE' button, and a 'MAKE AN OFFER' button. Shipping information indicates a cost of \$525 and a 4-6 week delivery time. The seller is a 'Vetted Professional Seller' with a 5/5 rating. The video title is 'Design Manager Integration with 1stdibs.com' and it has 1,44K subscribers and 763 views.

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

30. The Accused Instrumentality employs an electronic voting subsystem, necessarily having one or more data processing apparatus in order to track voting or electronic rating, configured to enable a user to electronically vote for or rate (e.g., by the user's choices with respect to a selection of an icon) an electronically available multimedia content (e.g., an item listing provided by an user-seller submitter, such as accompanying photo and/or textual content). 1stDibs uses function-specific subsystems, for example, as shown below.



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

31. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '480 Patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

32. To the extent marking is required, VCA has complied with all marking requirements.

IV. COUNT II **(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 9,477,665)**

33. Plaintiff incorporates the above paragraphs herein by reference.

34. On October 25, 2016, United States Patent No. 9,477,665 (“the ‘665 Patent”) was duly and legally issued by the United States Patent and Trademark Office. The ‘665 Patent is titled “Revenue-Generating Electronic Multi-Media Exchange and Process of Operating Same.” A true and correct copy of the ‘665 Patent is attached hereto as Exhibit B and incorporated herein by reference.

35. VCA is the assignee of all right, title, and interest in the ‘665 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘665 Patent. Accordingly, VCA possesses the exclusive right and standing to prosecute the present action for infringement of the ‘665 Patent by Defendant.

36. The application leading to the ‘665 patent was filed November 16, 2012, which was a continuation of application no. 11/978,781, which issued as United States Patent No. 8,340,994, which was a continuation of application no. 09/565,438 which issued as United States Patent No. 7,308,413. (Ex. B at cover). The ‘665 patent was first assigned to Virtual Creative Artists, LLC. (*Id.*).

37. The ‘665 Patent shares the identical specification as the ‘480 patent and therefore VCA incorporates the background and discussion of the invention in Paragraphs 11-18. Furthermore claim 1 involves a system for generating multimedia content. The claim requires, among other things, electronically generating a multimedia file from the retrieved electronic media Submissions in accordance with a selected digital format, wherein the identification of the submitter is maintained with each retrieved submission within the multimedia file. The claim requires electronically transmitting the multimedia file to a plurality of publicly accessible web servers to be electronically available for viewing on one or more user devices over a public network via a web-browser and. This allows electronically transmit data indicating votes or rating

of multimedia content in a much quicker and easier fashion based on specific user criteria. There is nothing abstract about this very particular, unconventional, and non-routine system for the generation of multimedia content as specifically claimed and there is no risk of preempting creating and distribution contention generally, or even within the context of the Internet.

38. The invention is a highly technical electronic process that cannot be achieved with the human mind and is instead rooted in computer technology, including the steps of:

- “electronically retrieving a plurality of electronic media submissions,”
- “electronically generating a multimedia file from the retrieved electronic media submissions in accordance with a selected digital format,”
- “electronically transmitting the multimedia file to a plurality of publicly accessible webservers to be electronically available for viewing on one or more user devices over a public network via a web-browser,” and
- “providing a web-based graphical user interface that enables a user to electronically transmit data indicating a vote or rating for an electronically available multimedia content or an electronic media Submission within a respective electronically available multimedia content.”

39. Each of these subsystems are configured in a very specific (and not generic, unconventional and non-routine manner to offer the novel and non-obvious approach claimed invention. For example, claim 1 requires an “electronic media submissions database,” which is a subsystem that receives media submissions from Internet users. This is not a generic database but rather a scalable database that must be able to receive, store, and manage multiple petabytes of multimedia data received from users all over the world. This is one of the many specialized databases required in the claim. In fact, the specification discloses the use of a sophisticated database management system known in the art at the time that was capable of handling data at this level, Oracle7. This type of database management system cannot operate on a generic computing system but rather requires specialized hardware and software.

40. The claim also provides details to explain how each step operates. For example, the claim requires “electronically retrieving a plurality of electronic media submissions from an electronic media submissions database using an electronic content filter located on one or more data processing apparatus.” Further, “the electronic media submissions database” in this step is further required to “store[] [1] data identifying the submitter and [2] data indicating content for each electronic media submission.” The step further requires and “electronic content filter.” The “filter” also includes a very specific algorithm of “being based at least in part on at least one of the one or more user attributes.”

41. The claims also require an “electronically generating a multimedia file from the retrieved electronic media submissions in accordance with a selected digital format.” Manipulation of multimedia data in accordance with a selected digital format is far from generic and was not routine or conventional at the time of the invention. Further, this step requires that the “electronic media submissions database” “stores data identifying the submitter” and the “the identification of the submitter is maintained with each retrieved submission within the multimedia file.”

42. The claims also require “providing a web-based graphical user interface that enables a user to electronically transmit data indicating a vote or rating for an electronically available multimedia content or an electronic media Submission within a respective electronically available multimedia content,” which is a well-defined, specific, and unconventional feature. By including this additional voting/rating feature, the claims avoid any risk of preempting the creation and distribution of content.

43. The claim also inventive concepts. For example, the claim requires that the filtering tool be at a specific location, remote from the end-users, with customizable filtering features specific to each end user. The "electronic content filter" is located at the server, remote from the

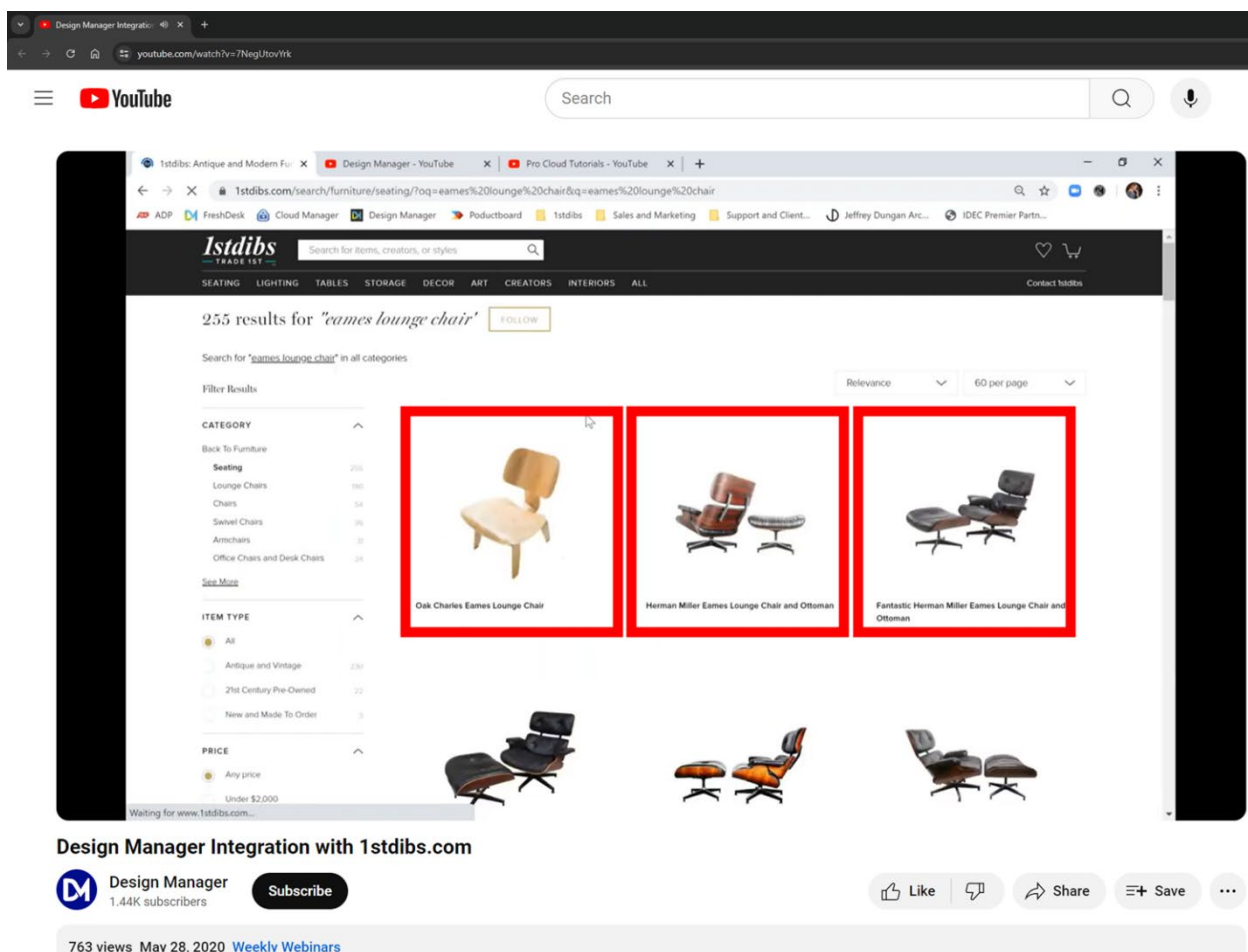
end user, and customizable based on user attributes. The “electron voting” step at the time of the invention was also novel, inventive, and added sufficient inventive contributions to avoid a risk of preempting the creation and distribution of media content. It is clearly possible to create and distribute media content without ever having to include a “voting” subsystem on what components should be included in such media content.

44. These arguments overcame a patent eligibility rejection under 35 U.S.C. §101 of the claim at issue during the prosecution of the ‘665 patent before the United States Patent and Trademark Office.

45. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing claim 1 of the ‘665 Patent in New York, and elsewhere in the United States, by employing a computer-based system using <https://www.1stdibs.com/> (“Accused Instrumentality”) (e.g., <https://www.1stdibs.com/>).

46. 1stDibs uses a computer-based system for its Accused Instrumentality, to enable user-sellers to create personalized seller profiles containing multimedia content and publish multimedia content in the form of item listings containing associated image content and textual content. User-seller profiles may showcase information about the seller and other listings of the seller, each of which include multimedia content in the form of image and textual content. Item listings containing multimedia content may be shown to other users based on, *inter alia*, user preferences and attributes of the user-seller or the item listed. This system makes use of one or more data processing apparatus, and a computer readable medium coupled to the one or more data processing apparatus having instructions stored thereon which, when executed by the one or more data processing apparatus, cause the one or more data processing apparatus to perform an electronic method comprising the functions as further discussed below. 1stDibs, during the

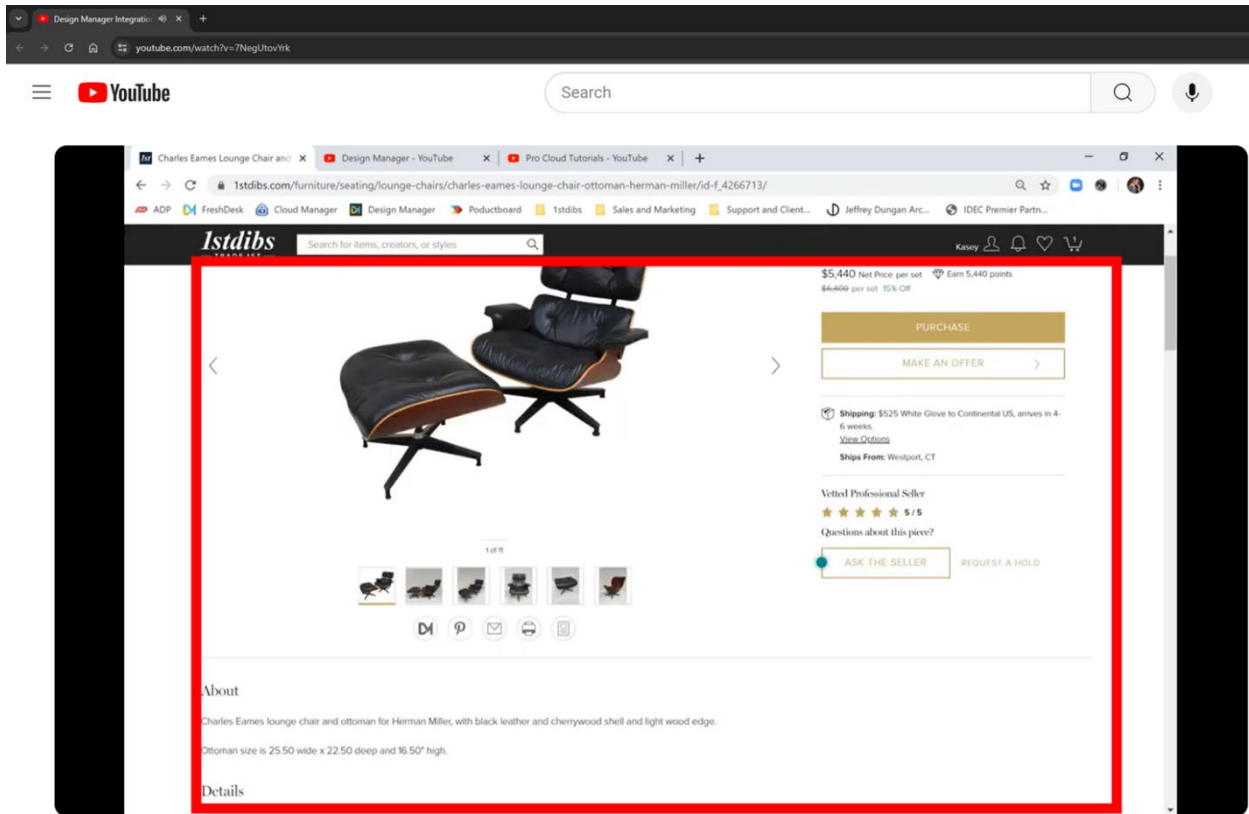
relevant time period, took advantage of multiple cloud server providers for the Accused Instrumentality, as discussed above, as well as scalability within its cloud server providers, employing separate server subsystems for all its meaningfully different functions. 1stDibs uses, and has used during the relevant time period, numerous different networks and providers for, *inter alia*, content management systems, web servers, web hosting, data centers, proxy certificates, SSL certificates, traffic analysis, advertising, and tagging, thereby using separate server subsystems for all its meaningfully different functions, such as those indicated below.



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

The screenshot shows a YouTube video player with a browser window embedded within it. The browser window displays the 1stdibs.com website, specifically the product page for a Charles Eames Lounge Chair and Ottoman for Herman Miller. The product image, price (\$5,440), and purchase options are highlighted with a red border. Below the video, the YouTube channel name 'Design Manager' is visible, along with a 'Subscribe' button and video statistics: 763 views, May 28, 2020, and 'Weekly Webinars'.





(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).



Design Manager Integration with 1stdibs.com

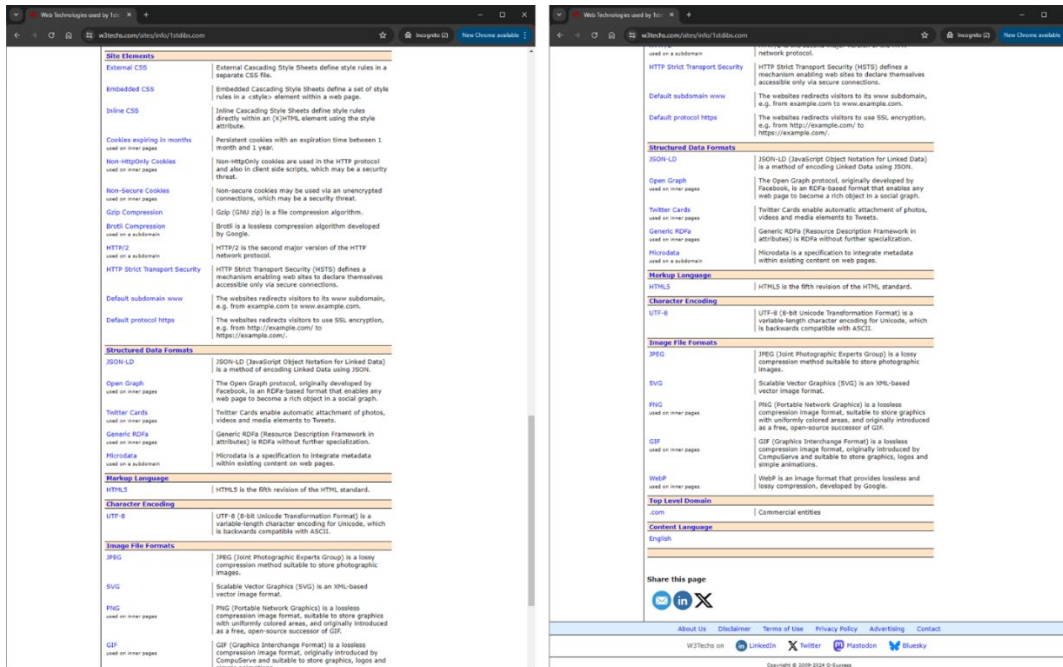
 Design Manager
1,44K subscribers

Subscribe

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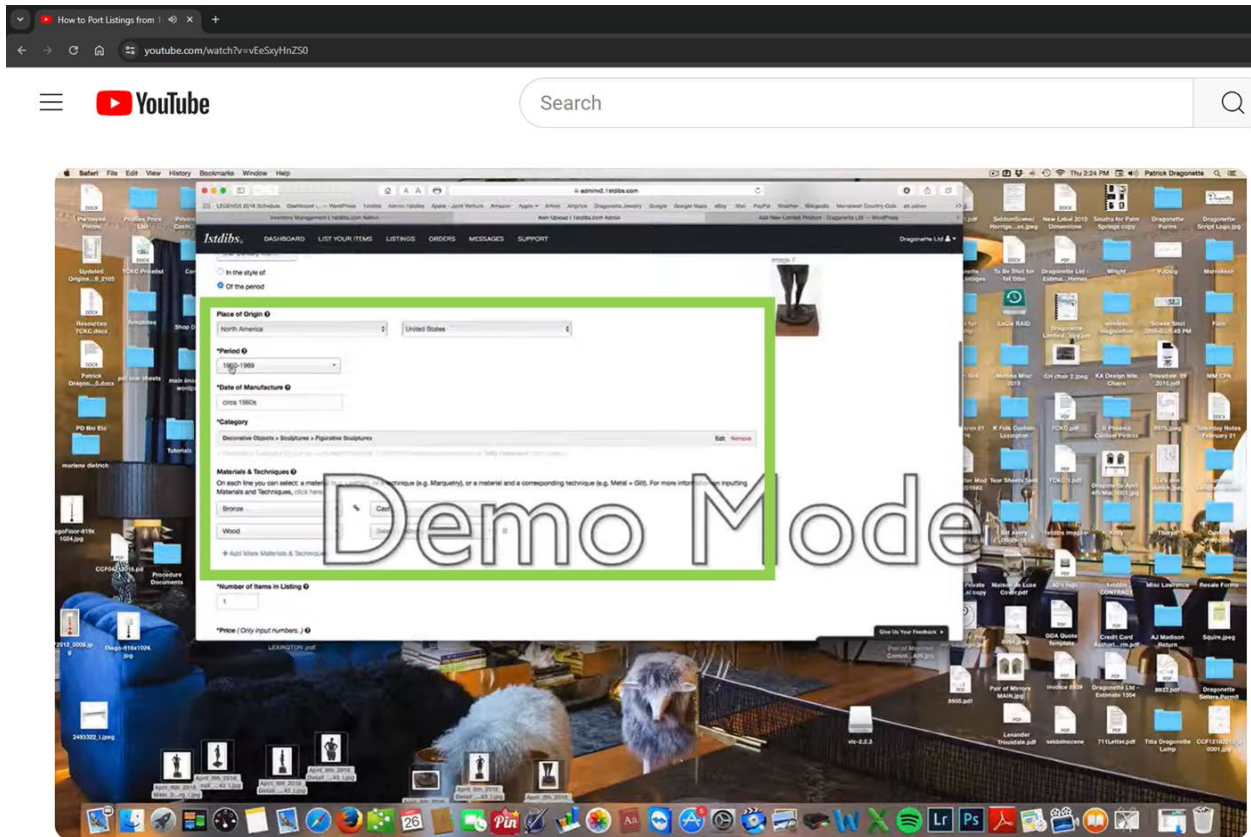
763 views May 28, 2020 Weekly Webinars

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).



(E.g., <https://w3techs.com/sites/info/1stdibs.com>).

47. The Accused Instrumentality electronically retrieves a plurality of electronic media submissions from an electronic media submissions database on a non-transitory medium, for example multimedia content pertaining to creating an item listing on the Accused Instrumentality, as well as multimedia content to be displayed on the user's profile or curated feed of other users, for example as discussed and shown above in connection with the above discussion. Individual users can create a seller profile and post item listings on 1stDibs's Accused Instrumentality, which are stored in a user database stored in memory. Seller accounts and item listings are available to other users through the Accused Instrumentality, for example, as discussed above. The user attributes of users who create a profile and/or post item listings include, e.g., item dimensions, design style, materials used, place of origin, period, production type, condition, and the like as shown for example below. The Accused Instrumentality employs an electronic multimedia creator server subsystem operatively coupled to the electronic media submissions server subsystem, necessarily having one or more data processing apparatus in order to manage content, and an electronic creator multimedia database stored on a non-transitory medium, configured to select and retrieve a plurality of electronic media submissions (e.g., item listings) from the electronic media submissions database using an electronic content filter located on the electronic multimedia creator server. For example with respect to an item listing, as can be seen below, such electronic content filter as is used by 1stDibs is based at least in part on at least one of the one or more user attributes, (e.g., based on, *inter alia*, item type and category) which in turn affect which electronic media submissions, e.g., the associated item, appear to the user as shown and discussed for example below. 1stDibs uses function-specific subsystems, for example, as shown below.



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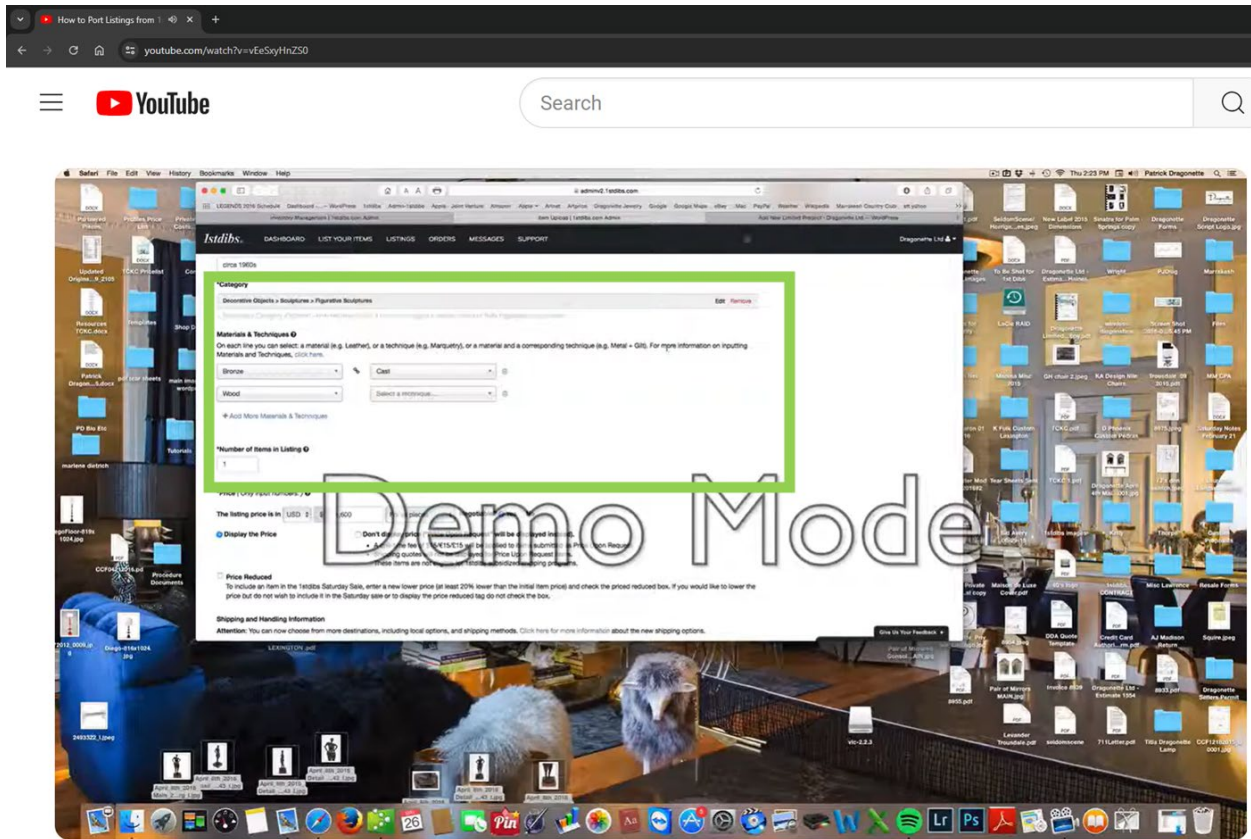
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(E.g., <https://www.youtube.com/watch?v=vEeSxyHnZS0>).



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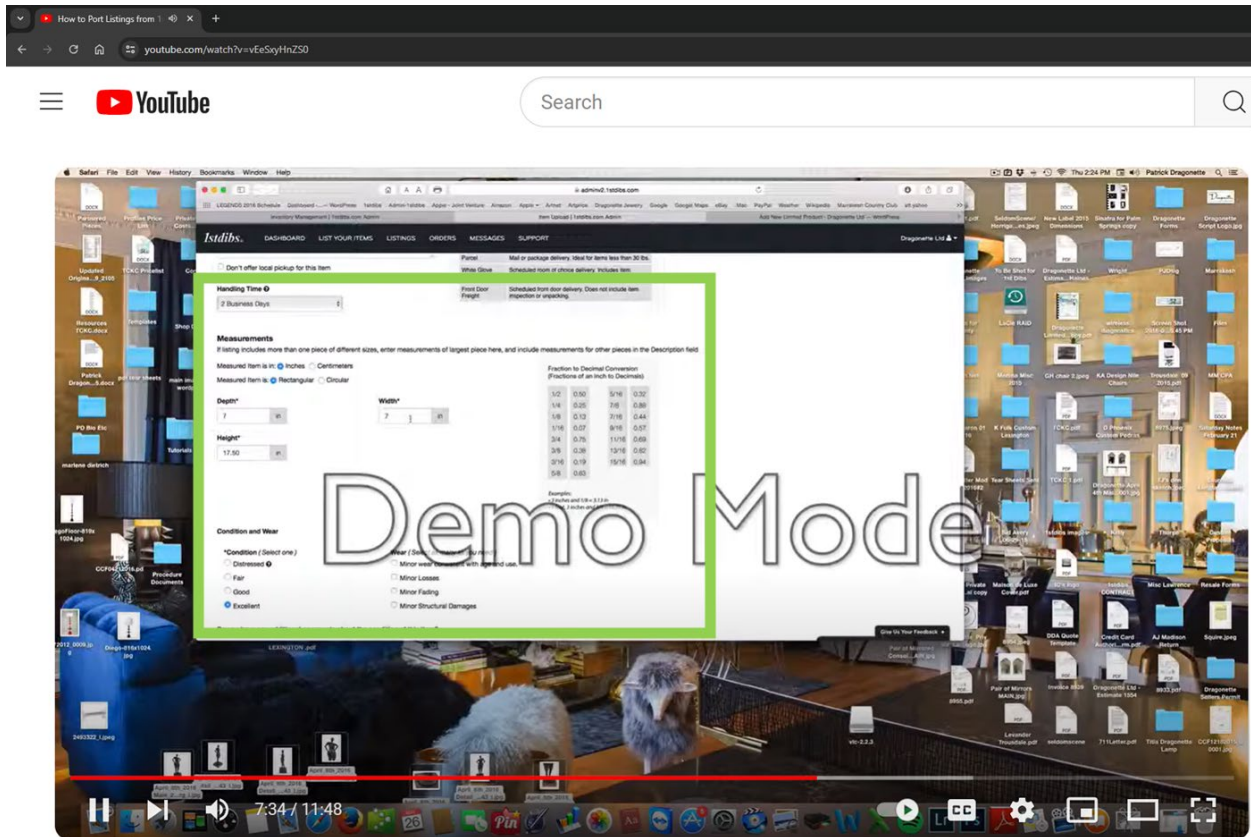
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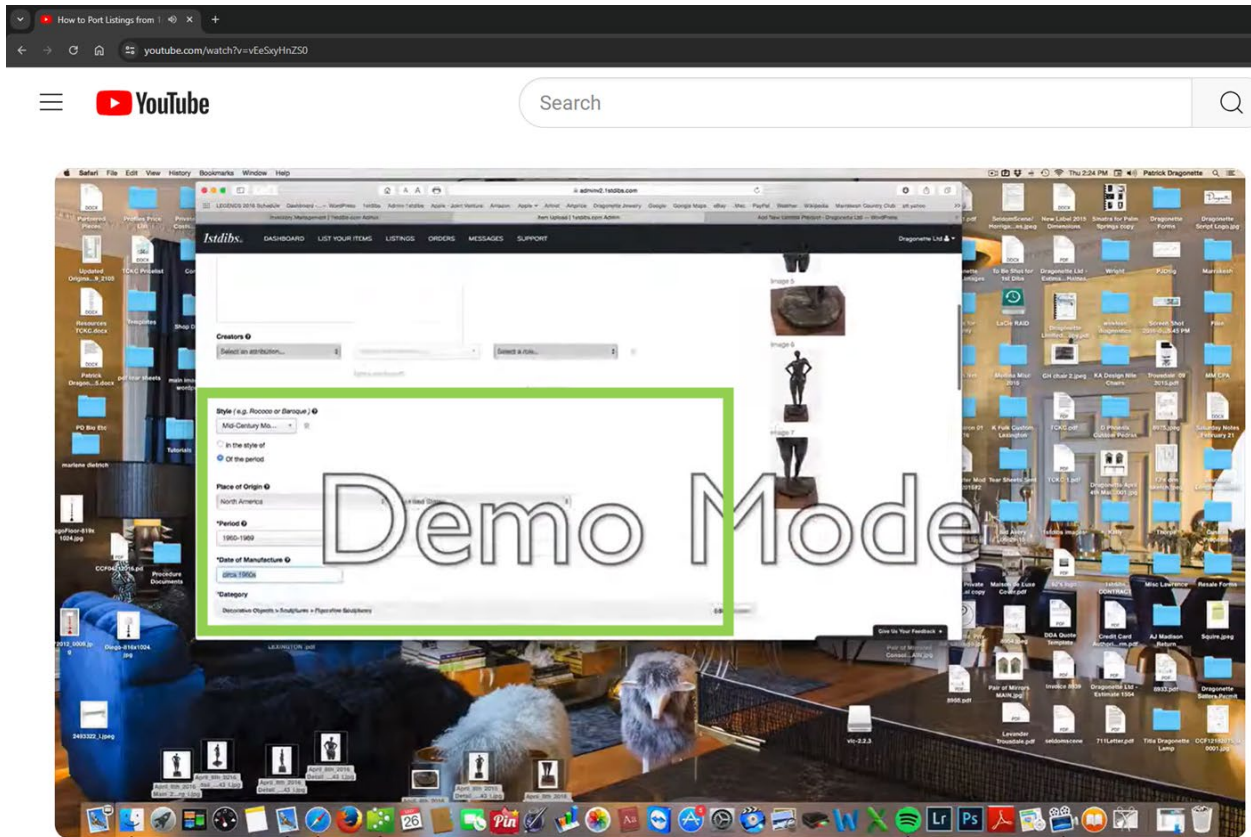
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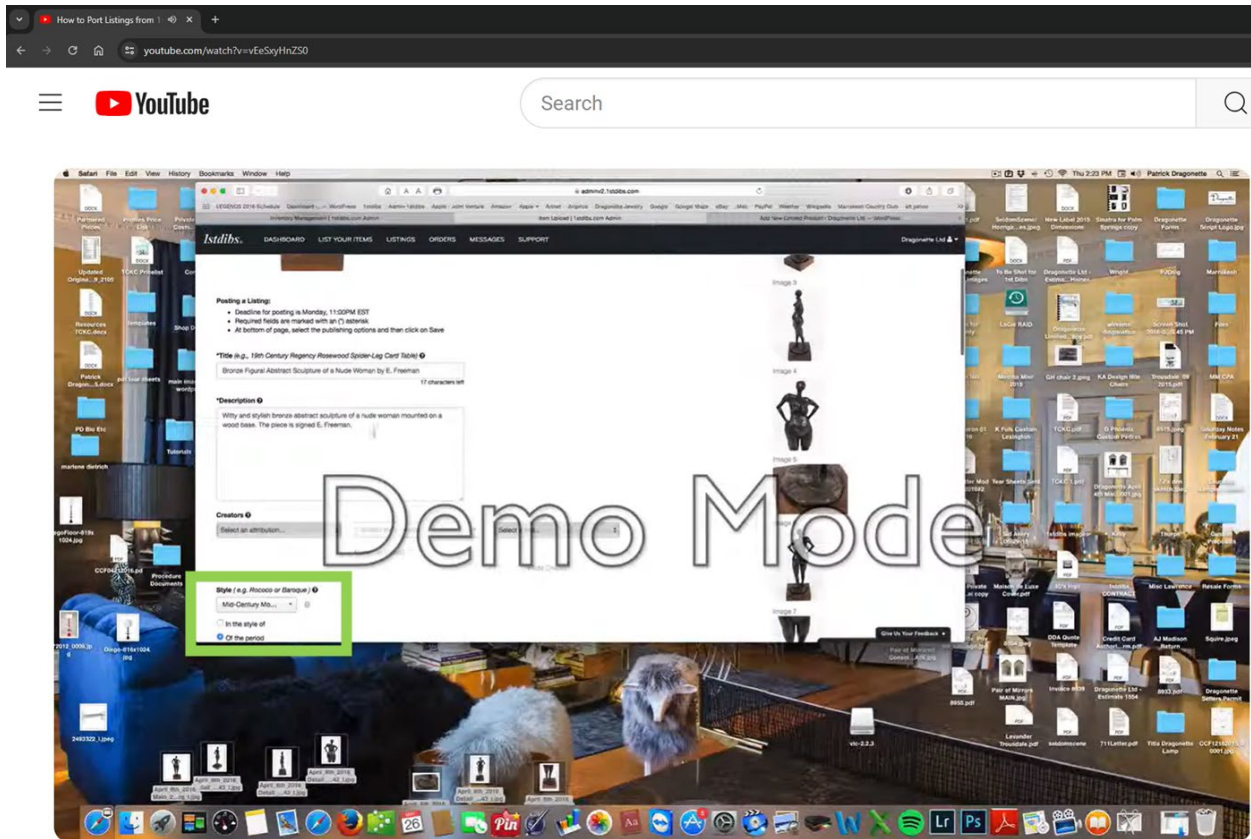
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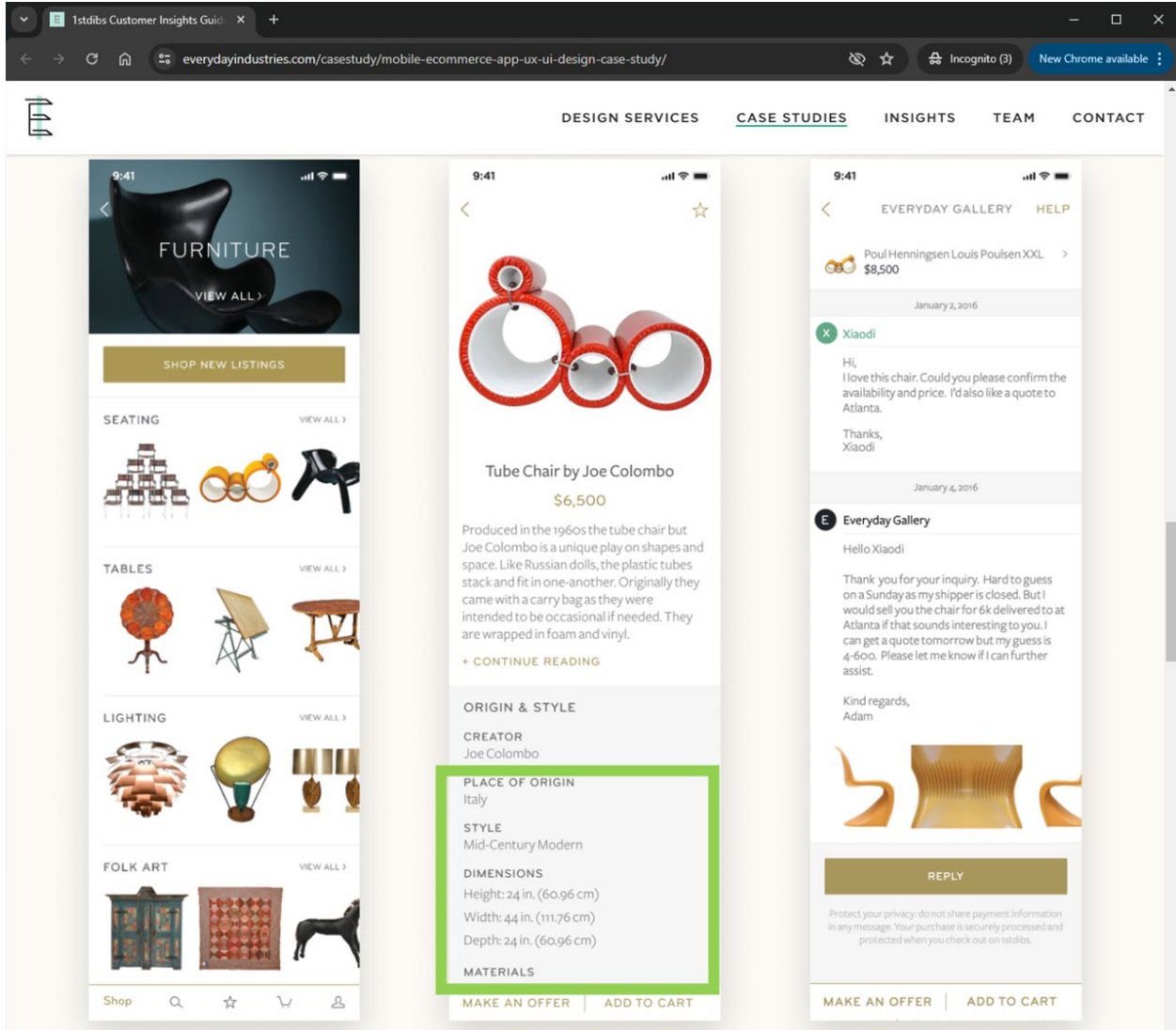
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(E.g., <https://www.youtube.com/watch?v=vEeSxyHnZS0>).



(E.g., <https://everydayindustries.com/casestudy/mobile-ecommerce-app-ux-ui-design-case-study/>).

1stdibs.com/furniture/seating/ottomans-poufs/foot-stool-red-offered-vladimir-kagan-design-group/id-f_11041073/

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Foot Stool in Red Offered by Vladimir Kagan Design Group

\$2,970

PURCHASE

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Questions about this piece?
Vetted Professional Seller 5.0 ★★★★★

ASK THE SELLER

1 of 13

Item Details | Manufacturer | Seller Information | Shipping & Returns | The 1stdibs Promise

Vladimir Kagan Foot Stool In Red. Pairs with Multi-position Reclining chair.

Vladimir Kagan (1927-2016) emigrated to the United States from Germany in 1938. He studied Architecture at Columbia University before joining his father, a master cabinetmaker, to apprentice in his

Creator:
[Vladimir Kagan](#) (Manufacturer, Designer)

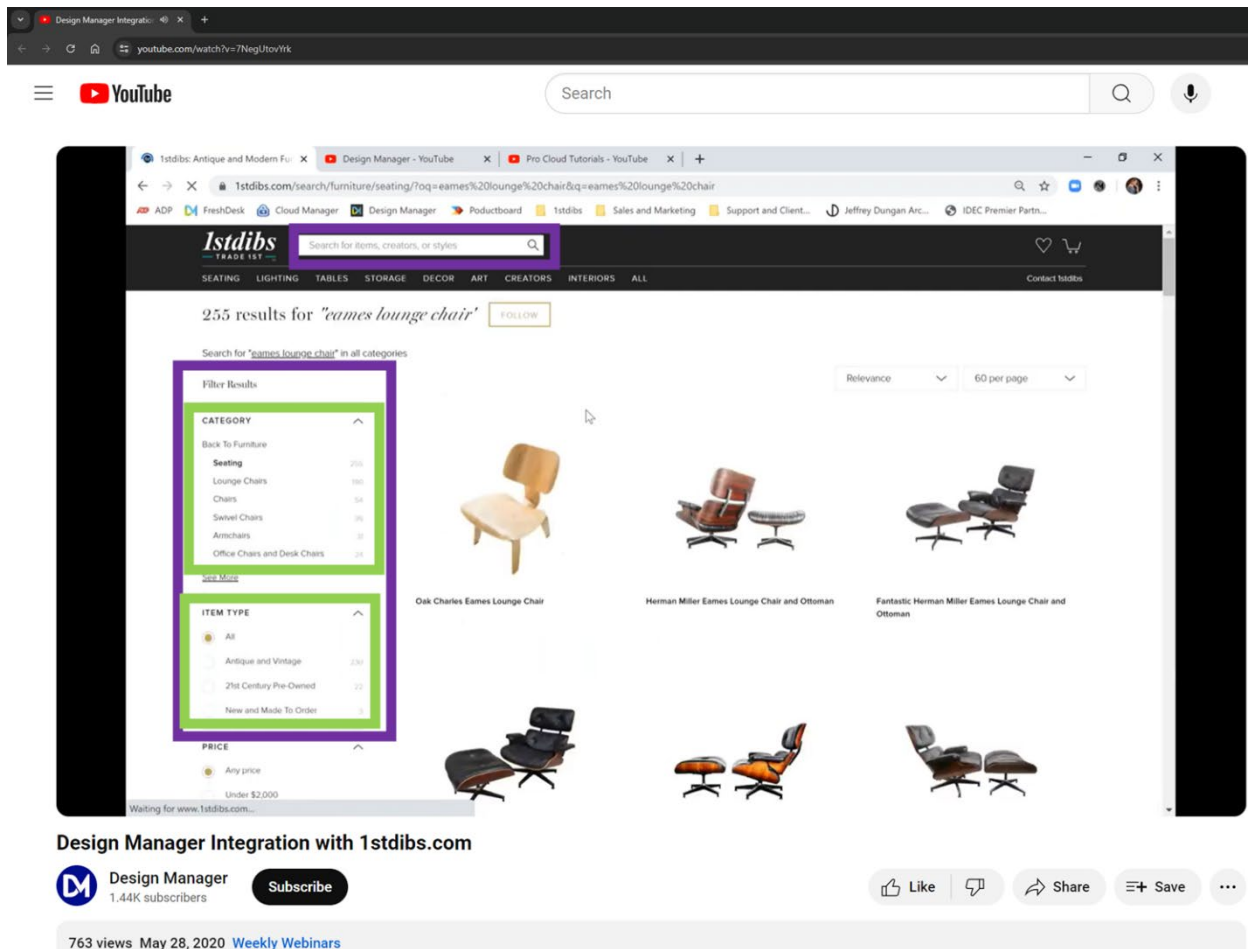
Dimensions: Height: 17 in (43.18 cm)
Width: 19 in (48.26 cm)
Depth: 20 in (50.8 cm)

Production Type: New & Custom
(One of a Kind)

Estimated Production Time:
Available Now

Condition: Good
Ships from Kagan warehouse.

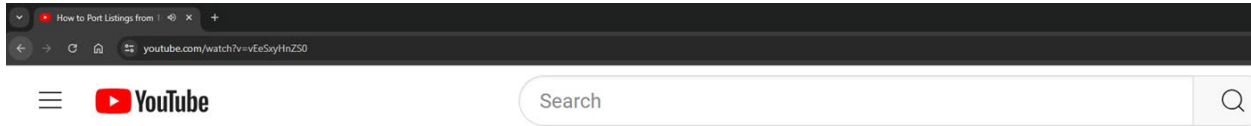
(E.g., https://www.1stdibs.com/furniture/seating/ottomans-poufs/foot-stool-red-offered-vladimir-kagan-design-group/id-f_11041073/).



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

48. The Accused Instrumentality includes an electronic media submissions server subsystem, having one or more data processing apparatus and an electronic media submissions database stored on a non-transitory medium in order to process and store received submissions from a plurality of users (such as user-sellers), for example content pertaining to respective item listings submitted by user on the Accused Instrumentality, as discussed and shown for example in connection with the above discussion. For example, the submissions pertaining to submitting an item listing may include, *e.g.*, photo, audio, and/or textual content. The submissions are provided to the Accused Instrumentality via a submissions electronic interface, *e.g.*, a web-based content portal, accessible for example by logging in and selecting options to upload such content or import

content, configured to receive such electronic media, from a plurality of submitters over a public network (e.g., the Internet) and stored, via an uploading process, in said electronic media submissions database for use in distribution to other users of the Accused Instrumentality.



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Conor McKiernan
2 subscribers

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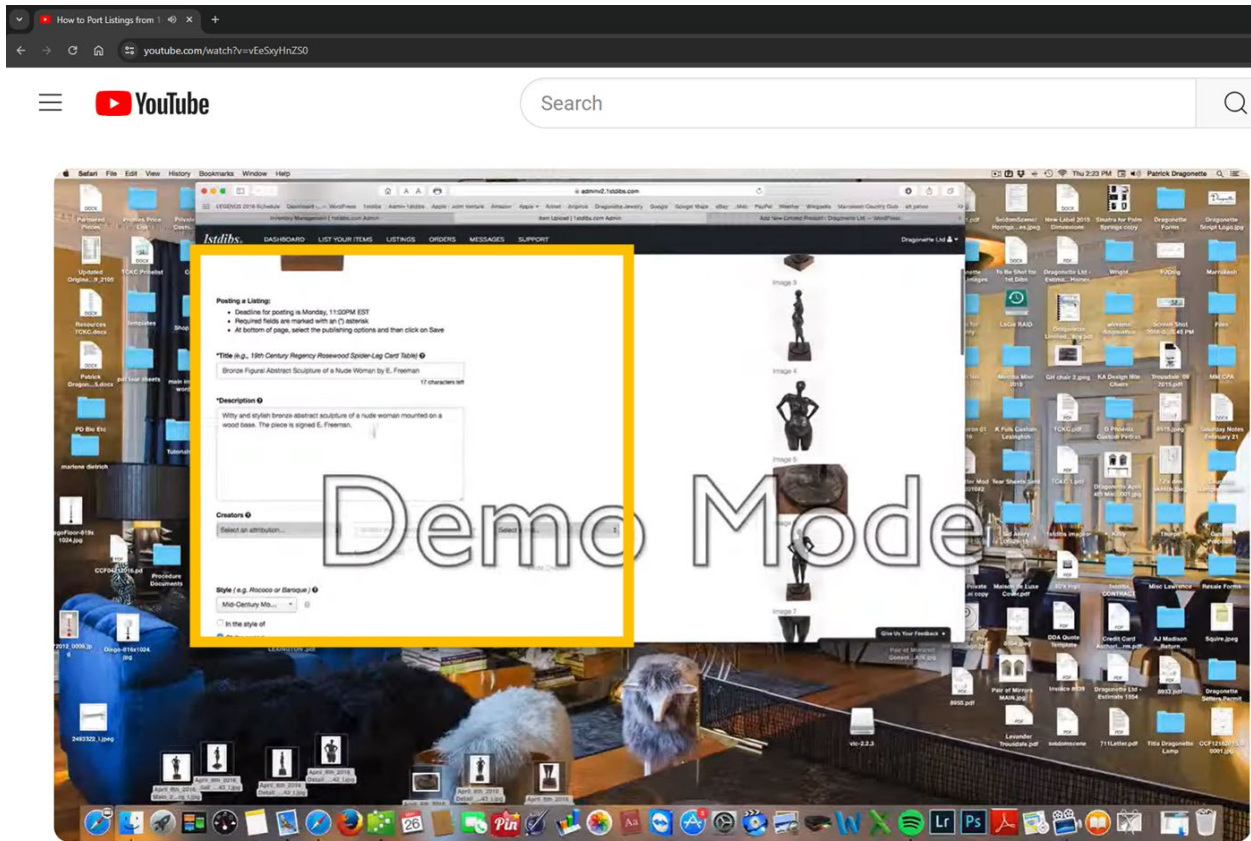
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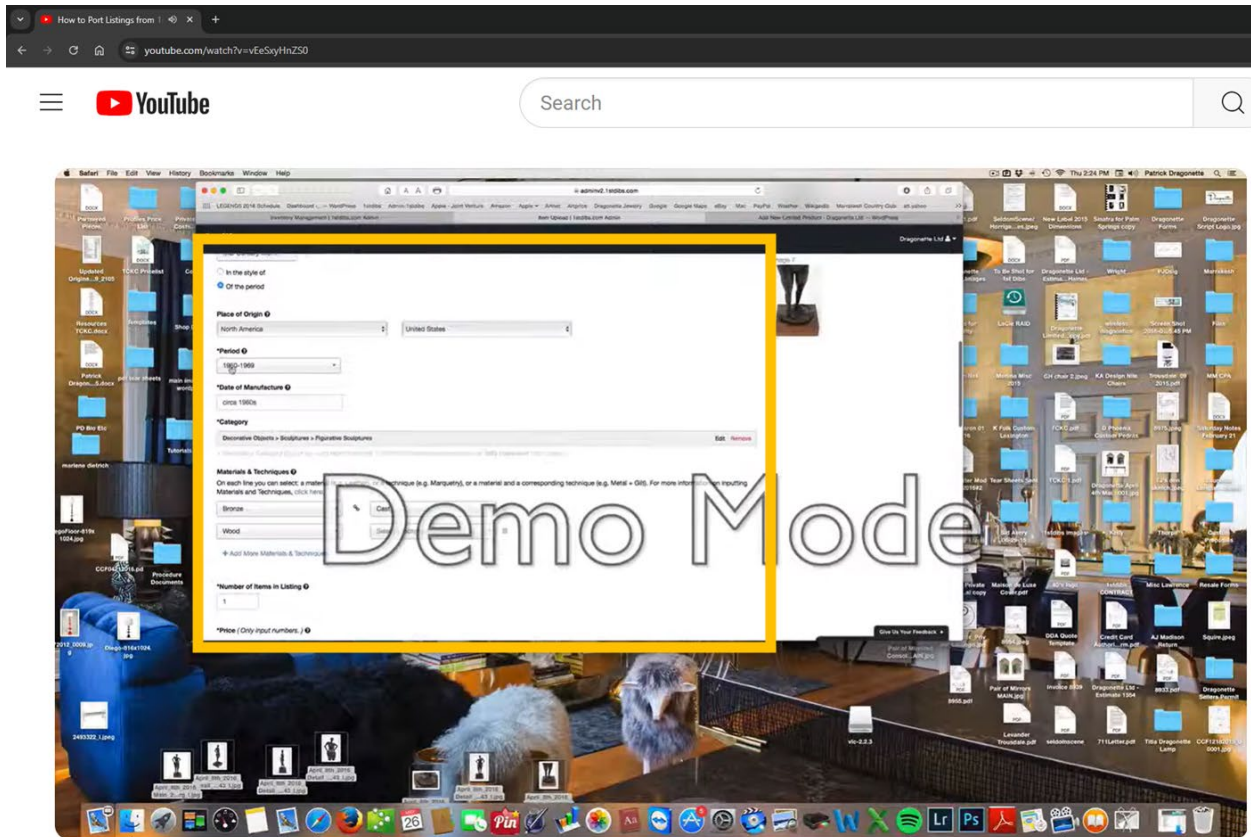
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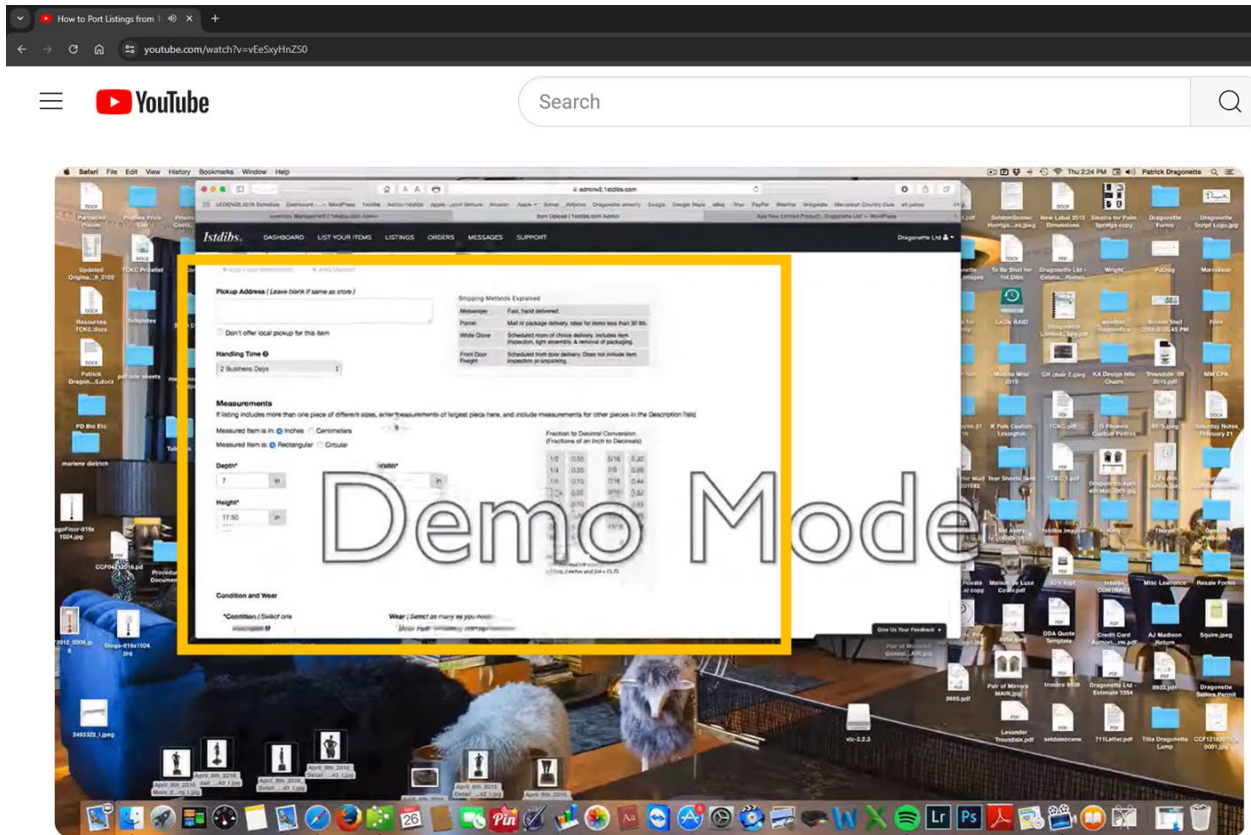
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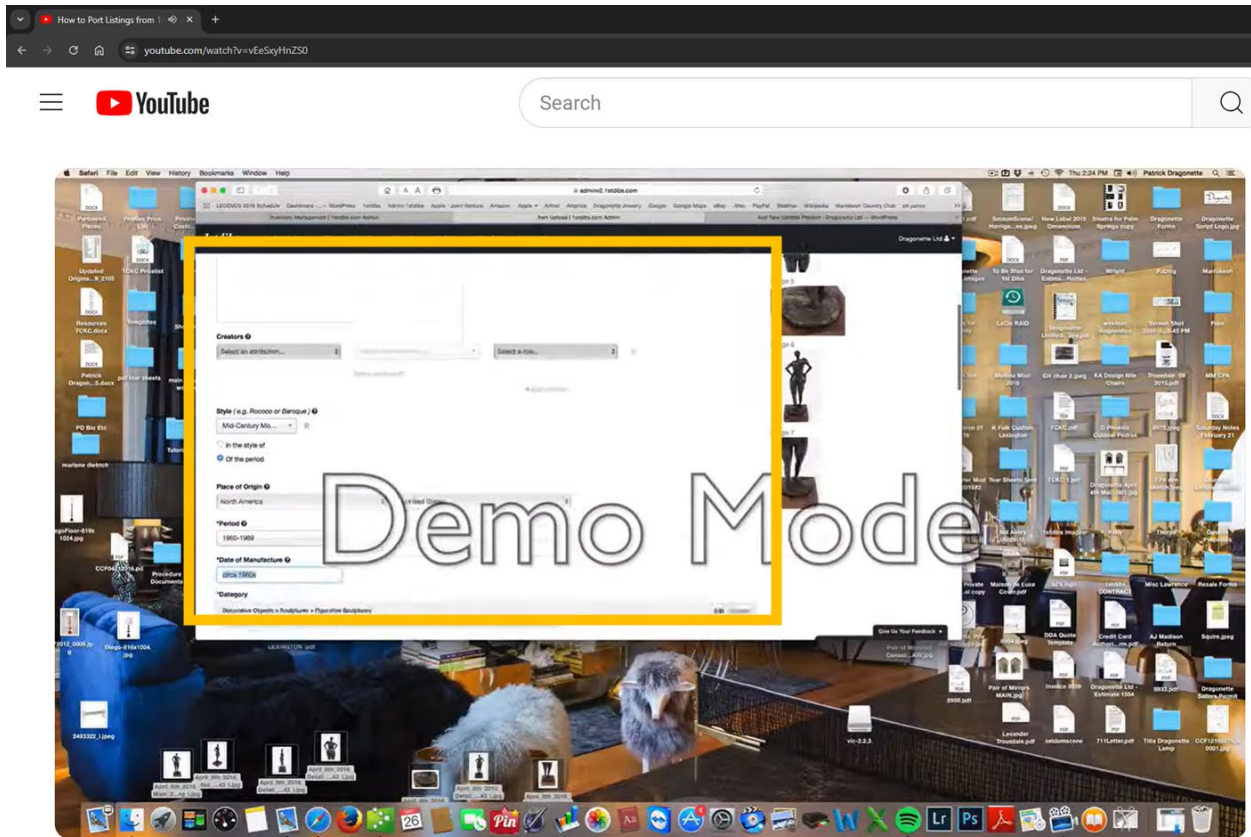
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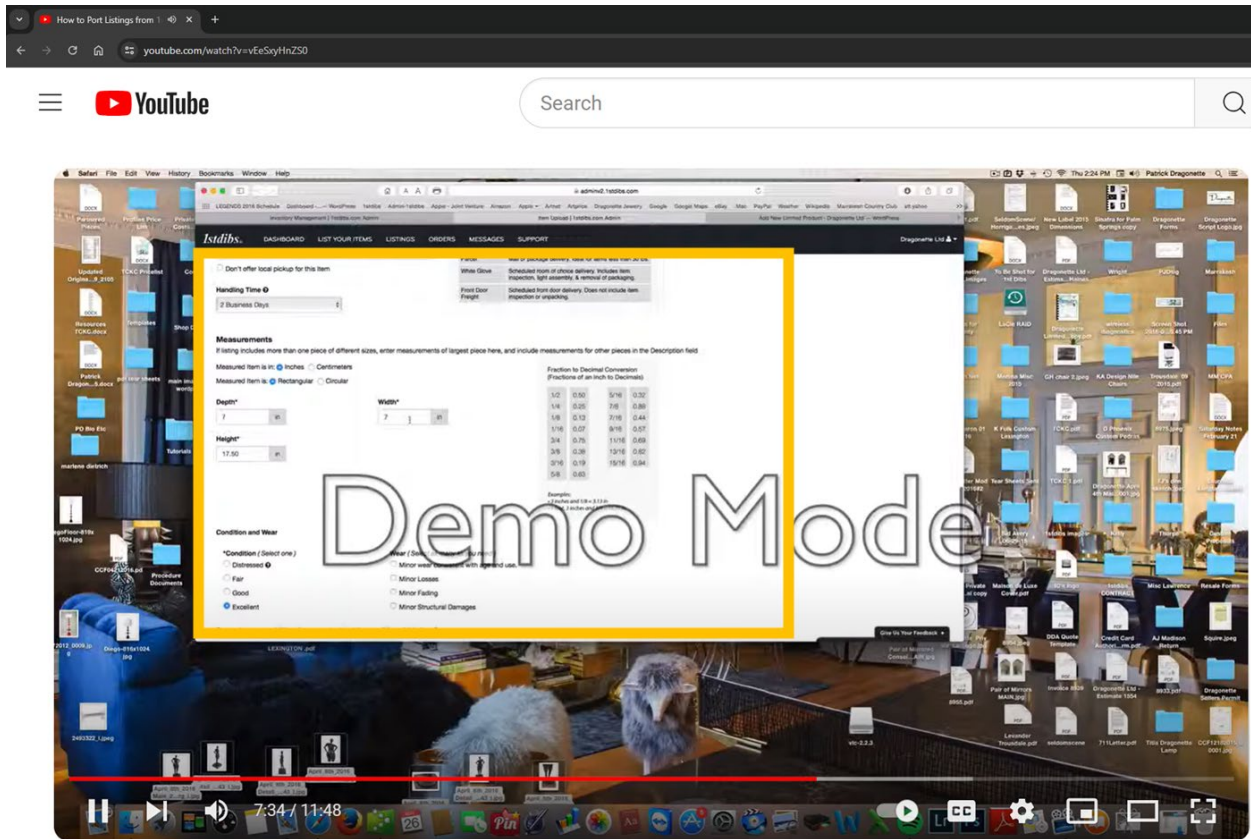
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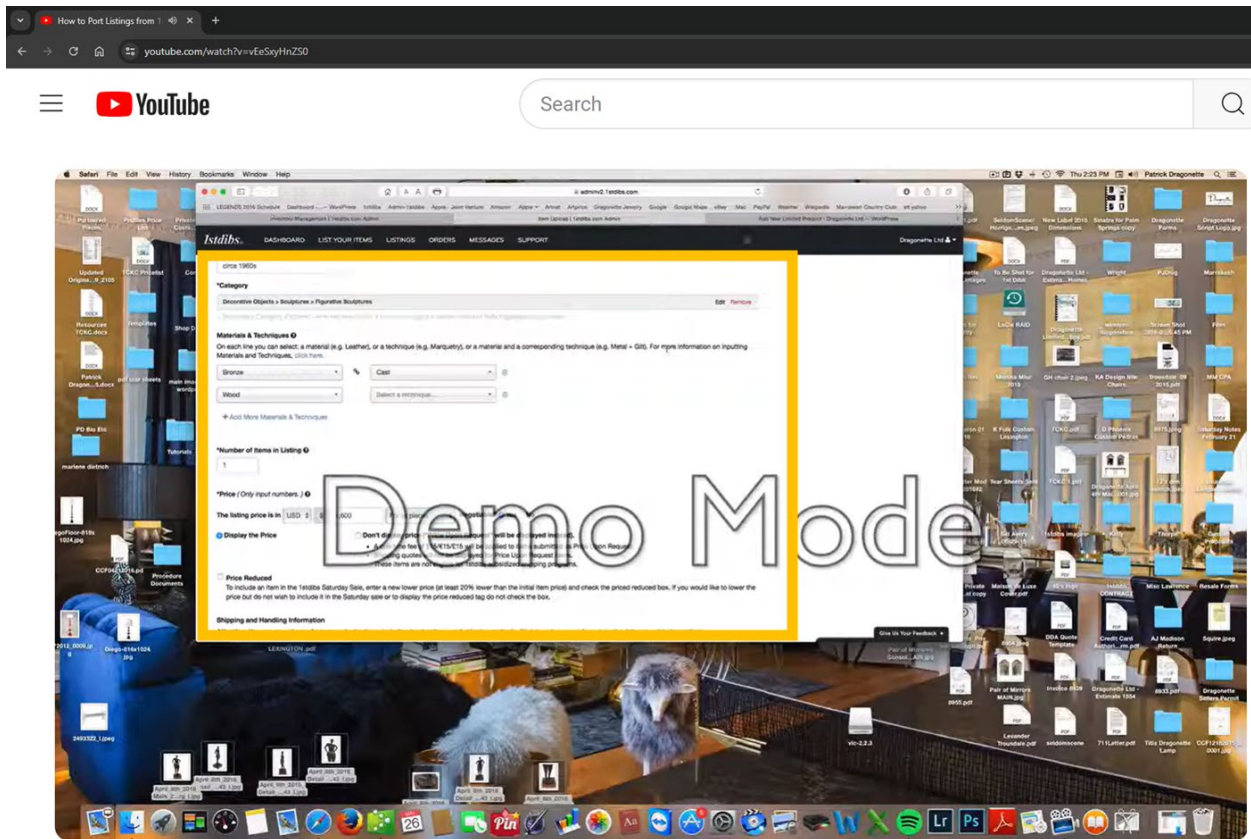
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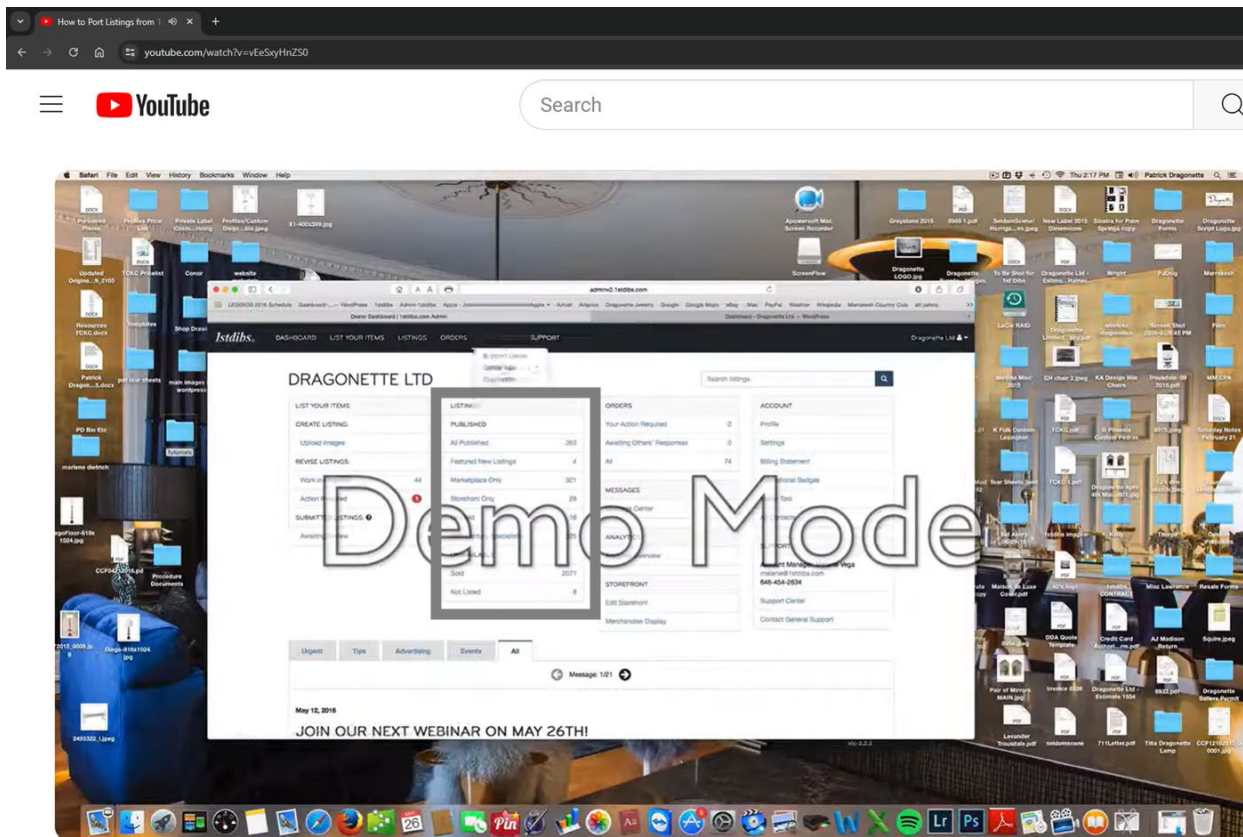
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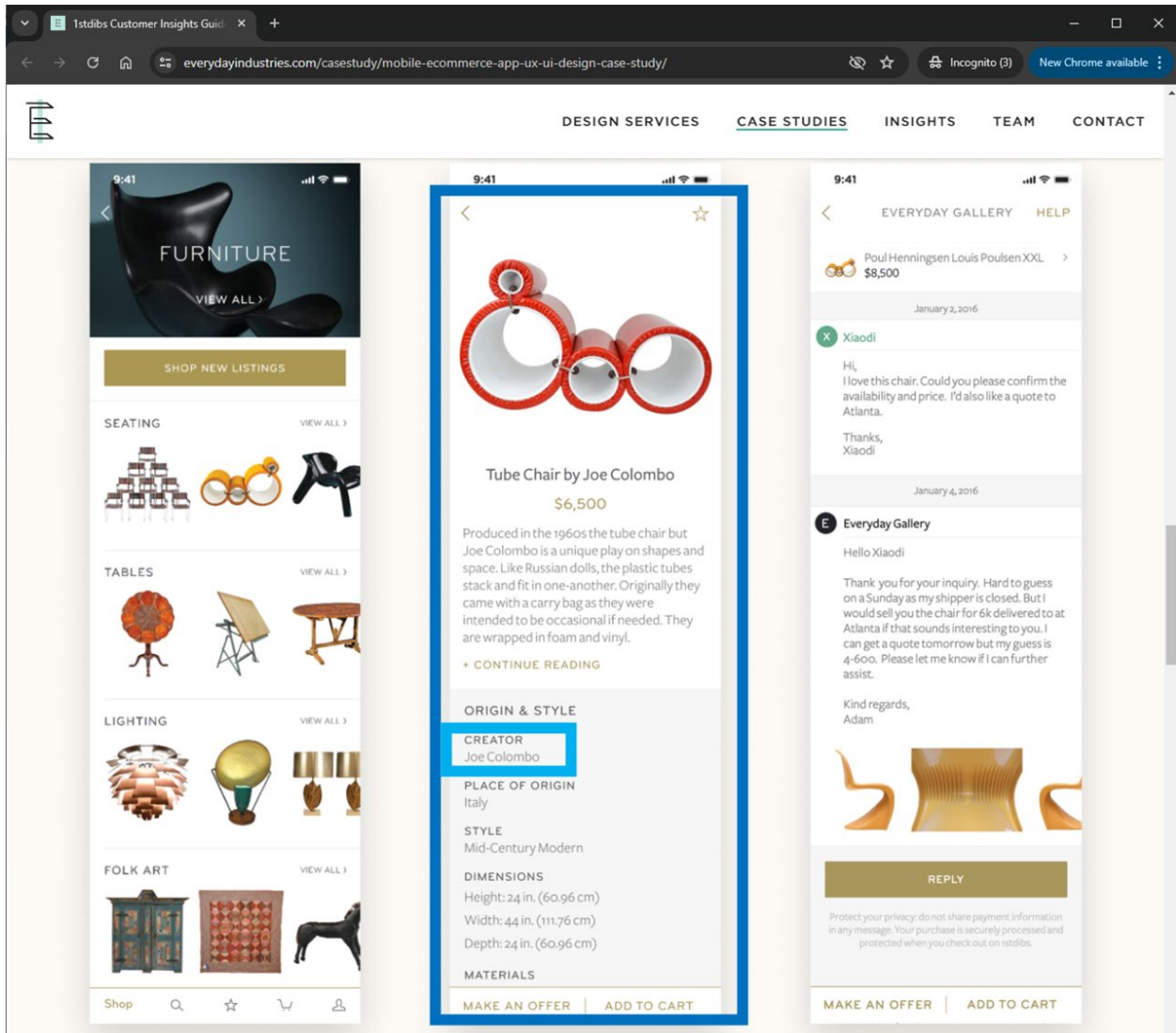
74 views Jul 31, 2018

(E.g., <https://www.youtube.com/watch?v=vEeSxyHnZS0>).

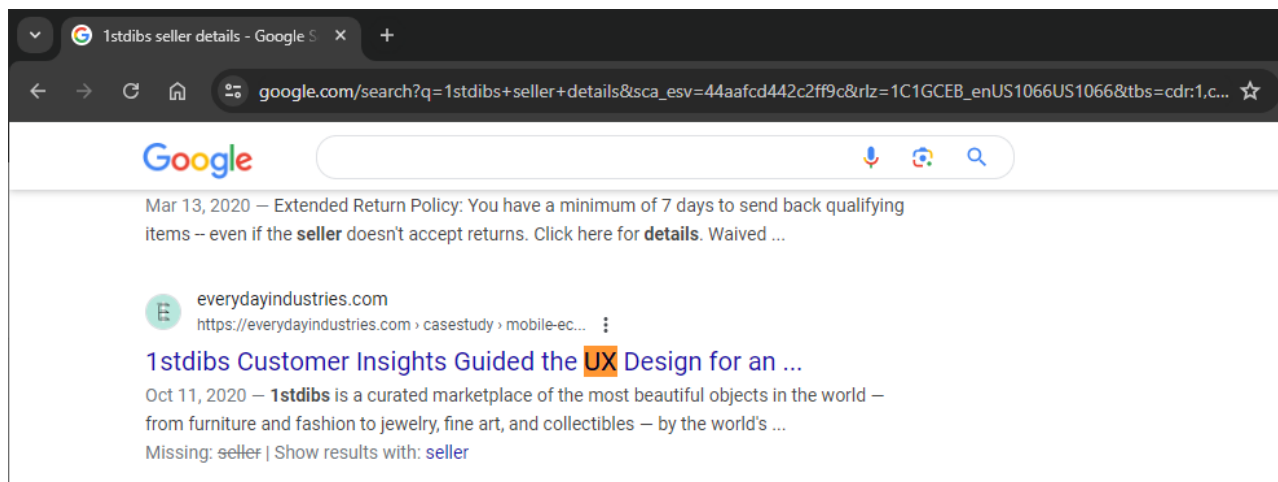
49. The electronic media submissions database of the Accused Instrumentality used by 1stDibs which stores the submissions further stores data identifying the submitter and data indicating content for each electronic media submission. As shown below, data identifying the user (submitter) includes, e.g., a name. Data indicating content for each electronic media submission includes photo, audio and/or textual content.

The screenshot shows a YouTube video player displaying a product page from 1stdibs.com. The browser tabs at the top include 'Design Manager Integration', 'Design Manager - YouTube', and 'Pro Cloud Tutorials - YouTube'. The browser address bar shows the URL: '1stdibs.com/furniture/seating/lounge-chairs/charles-eames-lounge-chair-ottoman-herman-miller/id-f_4266713/'. The 1stdibs.com website header features a search bar and navigation links for SEATING, LIGHTING, TABLES, STORAGE, DECOR, ART, CREATORS, INTERIORS, and ALL. The main content area displays a product listing for a 'Charles Eames Lounge Chair and Ottoman for Herman Miller'. The product image shows a black leather chair and ottoman. The price is listed as '\$5,440 Net Price per set' (originally \$6,400 per set, 15% off). There are buttons for 'PURCHASE' and 'MAKE AN OFFER'. Shipping information indicates '\$525 White Glove to Continental US, arrives in 4-6 weeks' and 'Ship From: Westport, CT'. The seller is a 'Vetted Professional Seller' with a 5/5 star rating. Below the product image, there is an 'About' section with the text 'black leather and cherrywood shell and light wood edge.' The video player interface includes a 'Design Manager' channel logo with 1.44K subscribers, a 'Subscribe' button, and social media interaction buttons for 'Like', 'Share', and 'Save'. The video has 763 views and was posted on May 28, 2020, as a 'Weekly Webinars' video.

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).



(E.g., <https://everydayindustries.com/casestudy/mobile-ecommerce-app-ux-ui-design-case-study/>).



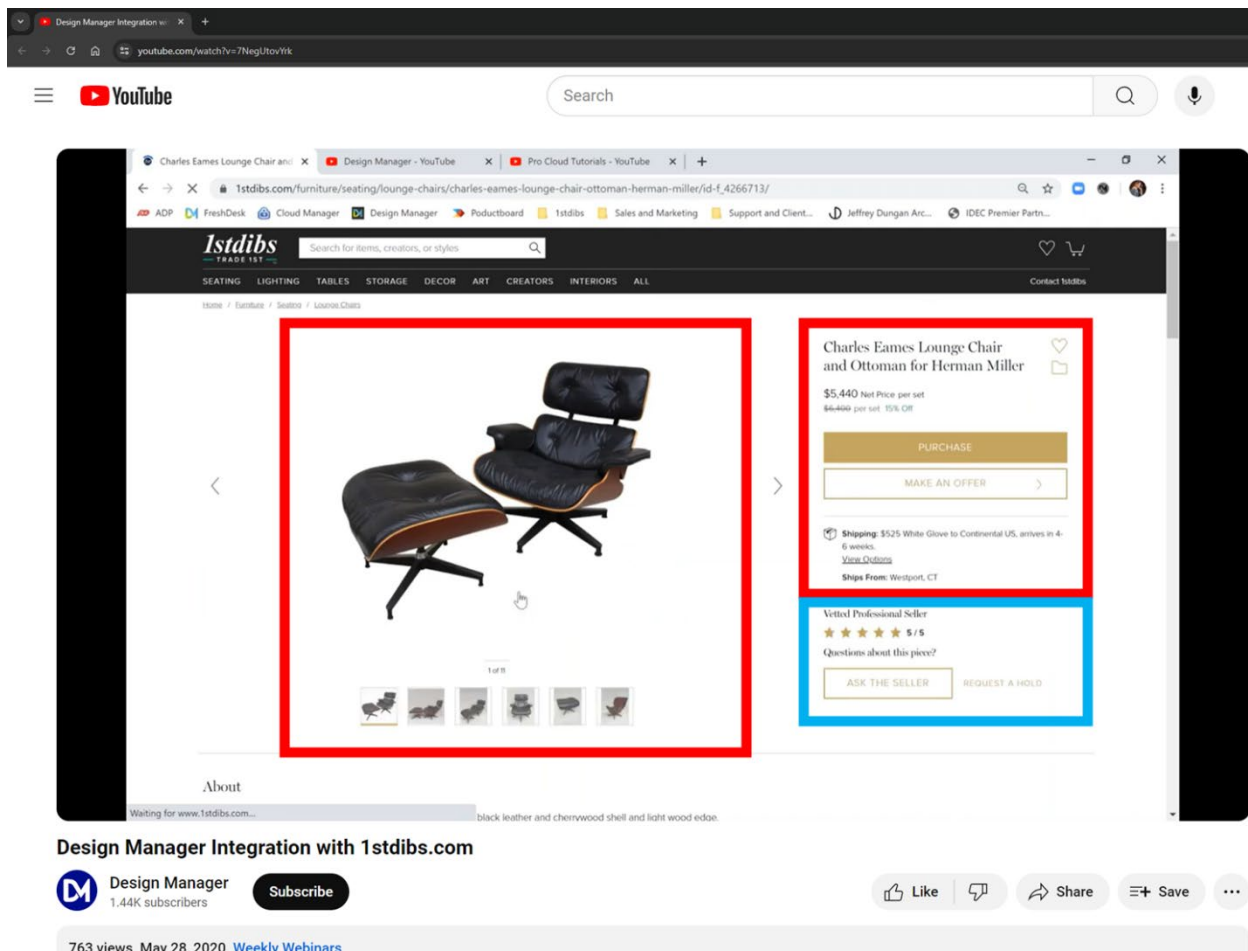
(E.g., https://www.google.com/search?q=1stdibs+seller+details&sca_esv=44aafcd442c2ff9c&rlz=1C1GCEB_enUS1066US1066&tbs=cdr:1,cd_min:1/1/2017,cd_max:5/1/2021&ei=wHKLZrK0K6ji5NoPstq5qA0&start=10&sa=N&sstk=AagrsuglhtFnc07f1btO-Vl-N2pQWotXPd0hLzEsT8fgSub9gcWHZ4OP1eakz57CXPzqoBVCwJTTeL2ZpTiq7-VVbo-VGWIsMNwIWUd8MDeplyolNXu8KUB8-7FIUuDmyTni0Zmb5TRuQg9afgFeefL1bPEV8m3NRVI&ved=2ahUKEwiylPT91JaHAXUoMVkFHTJtDtU4FBDy0wN6BAgLEAY&biw=2560&bih=1313&dpr=1).

The screenshot displays the 1stdibs.com website interface. At the top, there is a search bar and the 1stdibs logo. Below the navigation bar, a section titled "Items Similar to Foot Stool in Red Offered by Vladimir Kagan Design Group" features a row of six product thumbnails. The main product image is a red, tufted foot stool with a white metal base. To the right of the image, the product title "Foot Stool in Red Offered by Vladimir Kagan Design Group" is displayed, along with a price of \$2,970 and a "PURCHASE" button. Below the purchase button, shipping information and a "Vetted Professional Seller 5.0" badge are visible. The "Item Details" section at the bottom provides further information about the creator, Vladimir Kagan, and the production type, which is "New & Custom".

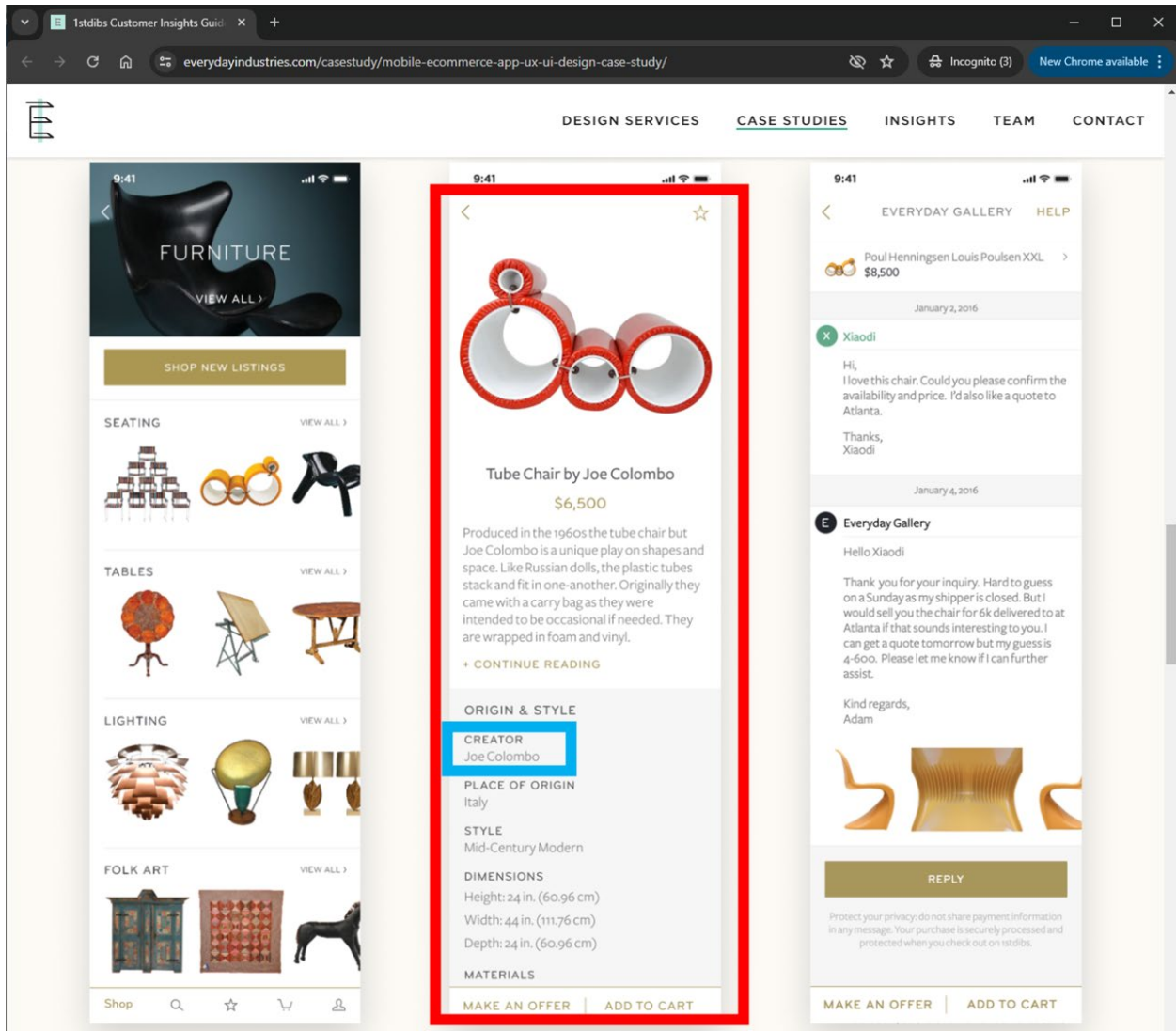
(E.g., https://www.1stdibs.com/furniture/seating/ottomans-poufs/foot-stool-red-offered-vladimir-kagan-design-group/id-f_11041073/).

50. The Accused Instrumentality electronically generates multimedia files from the retrieved electronic media submissions, in accordance with a selected digital format (e.g., a digital format compatible with a selected digital format compatible with the particular device such as a

computers or smart phone incorporating one or more browsers or apps), and the identification of the submitter is maintained with each retrieved submission within the multimedia file. As shown below, data identifying the user-seller submitter includes *e.g.*, a name identifying the user. For example, below are examples of such multimedia files being displayed within a user's browser or app, on a user device, where the identification of the submitter (*e.g.*, the name of the user-seller submitter of the item listings and/or various content as discussed above) is maintained with each retrieved submission within the multimedia file having associated multimedia content, for example as shown below.



(*E.g.*, <https://www.youtube.com/watch?v=7NegUtovYrk>).



(E.g., <https://everydayindustries.com/casestudy/mobile-ecommerce-app-ux-ui-design-case-study/>).

Foot Stool in Red Offered by Vladimir Kagan Design Group

Items Similar to Foot Stool in Red Offered by Vladimir Kagan Design Group

Home / Furniture / Seating / Ottomans and Poufs

Foot Stool in Red Offered by Vladimir Kagan Design Group

\$2,970

PURCHASE

Shipping: \$549 In-Home Delivery Details

The 1stDibs Promise: Authenticity Guarantee, Money-Back Guarantee, 24-Hour Cancellation Details

Questions about this piece:
Vetted Professional Seller 5.0 ★★★★★

ASK THE SELLER

Item Details | Manufacturer | Seller Information | Shipping & Returns | The 1stDibs Promise

Vladimir Kagan Foot Stool in Red. Pairs with Multi-position Reclining chair.

Vladimir Kagan (1927-2016) emigrated to the United States from Germany in 1938. He studied Architecture at Columbia University before joining his father, a master cabinetmaker, to apprentice in his

Creator:
Vladimir Kagan (Manufacturer, Designer)

Dimensions: Height: 17 in (43.18 cm)
Width: 19 in (48.26 cm)
Depth: 20 in (50.8 cm)

Production Type: New & Custom
(One of a Kind)

Estimated Production Time:
Available Now

Condition: Good
Ships from Kagan warehouse.

(E.g., https://www.1stdibs.com/furniture/seating/ottomans-poufs/foot-stool-red-offered-vladimir-kagan-design-group/id-f_11041073/).

51. The Accused Instrumentality employs an electronic release subsystem operatively coupled to the electronic multimedia creator server subsystem, necessarily having one or more data processing apparatus in order to serve multimedia profile and/or item listings with associated

photo, and textual content to users, configured to make the multimedia content electronically available for viewing on one or more user devices. For example, as shown below, multimedia content associated with an item listing is provided on various user devices (e.g., a computer or other device with a web browser or app) in response to a user logging in to the Accused Instrumentality. 1stDibs uses function-specific subsystems, for example, as shown below.

The screenshot displays a YouTube video player showing a search results page from 1stDibs.com. The search query is "Eames lounge chair", resulting in 255 items. Three items are highlighted with red boxes:

- Oak Charles Eames Lounge Chair
- Herman Miller Eames Lounge Chair and Ottoman
- Fantastic Herman Miller Eames Lounge Chair and Ottoman

The video player interface includes a search bar, navigation tabs (SEATING, LIGHTING, TABLES, STORAGE, DECOR, ART, CREATORS, INTERIORS, ALL), and a subscribe button for "Design Manager" (1,44K subscribers). The video has 763 views and was posted on May 28, 2020.

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

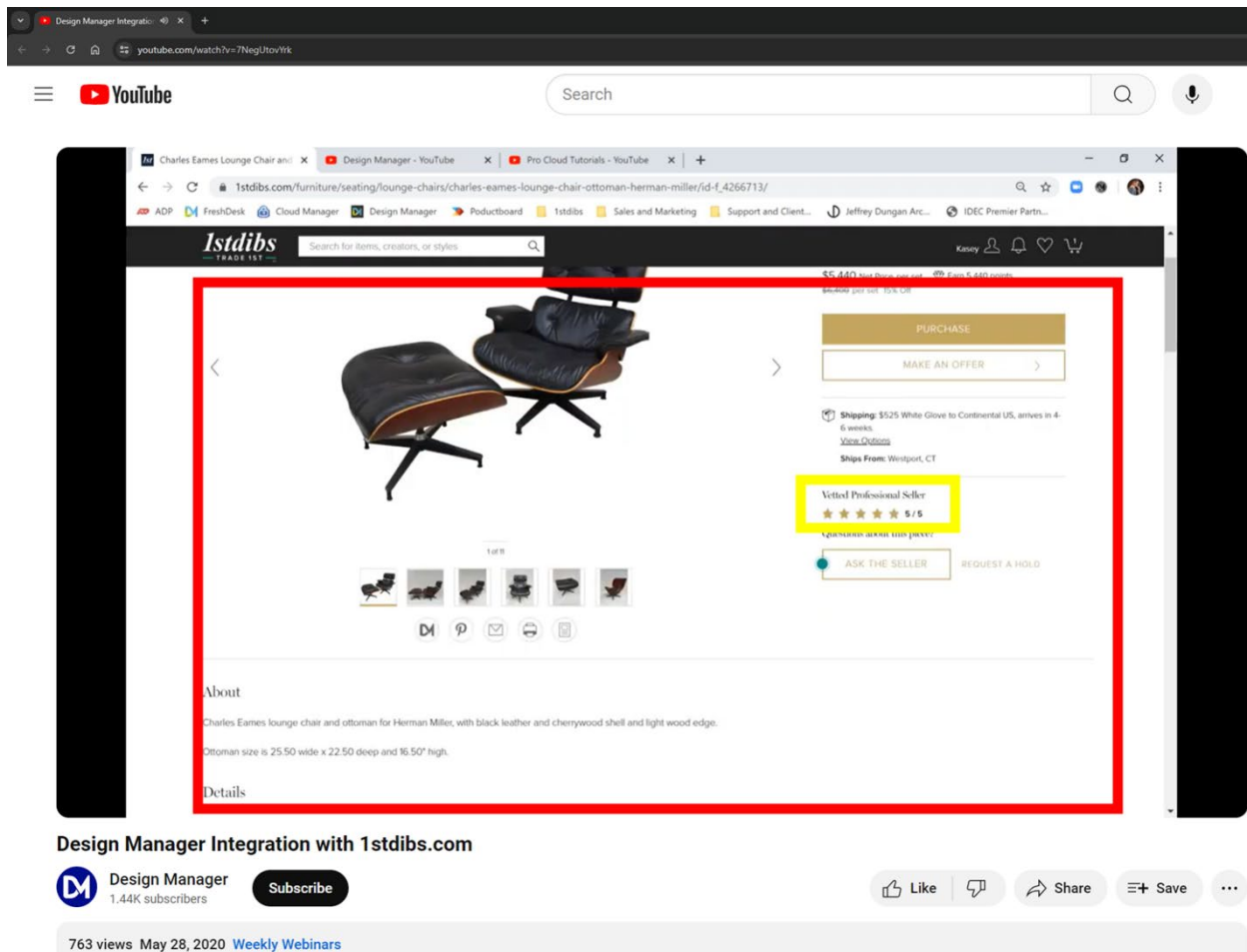
The screenshot shows a YouTube video player with a browser window embedded within it. The browser window displays the 1stdibs.com website, specifically the product page for a Charles Eames Lounge Chair and Ottoman for Herman Miller. The product image, which shows a black leather chair and ottoman, is highlighted with a red rectangular border. To the right of the image, the product name is listed as "Charles Eames Lounge Chair and Ottoman for Herman Miller" with a price of "\$5,440 Not Price per set" (originally \$6,400 per set, 15% off). Below the price are buttons for "PURCHASE" and "MAKE AN OFFER". Shipping information indicates a cost of \$525 for White Glove to Continental US, arriving in 4-6 weeks, and shipping from Westport, CT. The seller is identified as a "Vetted Professional Seller" with a 5/5 star rating. Below the product page, the YouTube video title is "Design Manager Integration with 1stdibs.com" and the channel is "Design Manager" with 1.44K subscribers. The video has 763 views and was posted on May 28, 2020, as a "Weekly Webinars" video.

(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

The screenshot displays a YouTube video player showing a product listing from 1stdibs.com. The listing is for a Charles Eames lounge chair and ottoman. The product image is centered, with a price of \$5,440 (reduced from \$6,400) and a 'PURCHASE' button. Below the image are social media sharing icons and a 'DM' icon. To the right of the image, there is a 'MAKE AN OFFER' button, shipping information, and a 'Vetted Professional Seller' badge with a 5/5 star rating. The video title is 'Design Manager Integration with 1stdibs.com' and it has 763 views as of May 28, 2020.

(E.g., <https://www.youtube.com/watch?v=7NegUtoVYrk>).

52. The Accused Instrumentality employs an electronic voting subsystem, necessarily having one or more data processing apparatus in order to track voting or electronic rating, configured to enable a user to electronically vote for or rate (e.g., by the user's choices with respect to a selection of an icon) an electronically available multimedia content (e.g., an item listing provided by an user-seller submitter, such as accompanying photo and/or textual content). 1stDibs uses function-specific subsystems, for example, as shown below.



(E.g., <https://www.youtube.com/watch?v=7NegUtovYrk>).

53. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '665 Patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

54. To the extent marking is required, VCA has complied with all marking requirements.

V. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent No. 9,501,480 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that one or more claims of United States Patent No. 9,477,665 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- c. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein, and an accounting of all infringements and damages not presented at trial;
- d. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and
- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

August 22, 2024

LOAKNAUTH LAW, P.C.

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